

The Senate

Select Committee on
Commonwealth Bilateral Air
Service Agreements

Commonwealth Bilateral Air Service
Agreements

October 2023

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ISBN 978-1-76093-565-8 (Printed version)

ISBN 978-1-76093-565-8 (HTML version)

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Printed by The Senate Printing Unit, Parliament House, Canberra

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Terms of reference

That a select committee, to be known as the Select Committee on Commonwealth Bilateral Air Service Agreements, be established to inquire into and report on all Federal Government decisions relating to any proposals since 2016 for additional services to Australia's airports, with particular reference to:

- (a) the impacts of any such decisions on competition in the Australian aviation sector and the cost of living pressures on families and business;
- (b) the impacts experienced in other countries associated with such decisions;
- (c) the impact on the Australian economy, including on Australian travellers, the tourism and hospitality sectors and movement of freight;
- (d) the rights of airlines or other bodies to appeal decisions regarding bilateral air services agreements made by the responsible minister; and
- (e) any other related matters.

Recommendations

Recommendation 1

4.27 The committee recommends that the Australian Government immediately review its decision not to increase capacity under Australia's bilateral air services agreement with Qatar.

Recommendation 2

4.40 The committee recommends that when making decisions relating to bilateral air service agreements, the Australian Government have regard to a cost benefit analysis, consult widely with key stakeholders including the Australian Competition and Consumer Commission, and publish a statement of reasons for decisions taken.

Recommendation 3

4.48 The committee recommends that the Australian Government review reform options to strengthen competition in the domestic aviation industry, including potential divestiture powers to remedy any misuse of market power.

Recommendation 4

4.51 The committee recommends that in order to reinstate monitoring of the airline industry by the Australian Competition and Consumer Commission, the Senate urgently pass the Competition and Consumer Amendment (Continuing ACCC Monitoring of Domestic Airline Competition) Bill 2023.

Recommendation 5

4.54 The committee recommends that the Australian Government direct the Australian Competition and Consumer Committee to conduct an inquiry into potential anti-competitive behaviour in the domestic aviation market.

Recommendation 6

4.65 The committee recommends that the Australian Government develop and implement consumer protection reforms as soon as reasonably practicable to address significant delays, cancellations, lost baggage and devaluation of loyalty programs.

Recommendation 7

4.71 The committee recommends that the Australian Government urgently respond to the Review of the Sydney Airport Demand Management Scheme

including the Mr Peter Harris AO recommendations to improve airport slot management and strengthen the 'use it or lose it' rule.

Recommendation 8

4.76 The committee recommends that the Australian Government consider introducing limited cabotage for foreign airlines to regional airports.

Recommendation 9

4.85 The committee recommends that the Senate adopt the following resolution:

That—

(a) the Select Committee on Commonwealth Bilateral Air Service Agreements, appointed by resolution of the Senate on 5 September 2023, as amended on 7 September 2023, be reappointed on the same terms, except as otherwise provided by this resolution, so that the committee may:

(i) receive evidence at a public hearing from:

(1) witnesses who were unavailable prior to the committee's original reporting date, including Mr Alan Joyce AC;

(2) government affairs representatives from Qantas, noting that Qantas' answers to questions on notice from senators were unsatisfactory,

(ii) report on any matters arising relevant to the committee's terms of reference; and

(b) the committee or any subcommittee have the power to consider and make use of the evidence and records of the select committee appointed on 5 September 2023;

(c) senators who were members or participating members of the previous select committee are appointed to the new committee; and

(d) the committee report by 29 November 2023.

Recommendation 10

4.92 The committee recommends that the Senate request the House of Representatives to require the attendance of the Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Catherine King MP, before the re-established Select Committee on Commonwealth Bilateral Air Service Agreements to provide public evidence.

Chapter 1

Introduction

1.1 On 5 September 2023, the Senate established the Select Committee on Commonwealth Bilateral Air Service Agreements (the committee).¹ On 7 September 2023, the Senate amended the resolution establishing the committee.² The committee was charged with inquiring into and reporting on the following matters by 9 October 2023:

All Federal Government decisions relating to any proposals since 2016 for additional services to Australia's airports, with particular reference to:

- (a) the impacts of any such decisions on competition in the Australian aviation sector and the cost of living pressures on families and business;
- (b) the impacts experienced in other countries associated with such decisions;
- (c) the impact on the Australian economy, including on Australian travellers, the tourism and hospitality sectors and movement of freight;
- (d) the rights of airlines or other bodies to appeal decisions regarding bilateral air services agreements made by the responsible minister; and
- (e) any other related matters.

Details of the inquiry were made available on the committee's webpage and the committee invited organisations, key stakeholders and individuals to provide submissions.

1.2 The committee received 147 submissions, which are listed at Appendix 1 of this report. Among these submissions are over 100 from individuals published as 'name withheld' raising issues in relation to the Qantas Frequent Flyer Program and other matters.³

1.3 The committee held five public hearings for the inquiry:

- 19 September 2023 in Sydney;
- 22 September 2023 in Perth;
- 26 September 2023 in Brisbane;
- 27 September 2023 in Canberra; and

¹ *Journals of the Senate*, No. 66—5 September 2023, pp. 1919–1921 and 1923–1924.

² *Journals of the Senate*, No. 68—7 September 2023, p. 1962.

³ The committee provided Qantas with an opportunity to respond to these submissions, which it did via a written submission that also expressed the company's willingness to 'engage with the members who have raised concerns so that we can address any outstanding issues directly' (see Qantas Loyalty, *Submission 141*, [p. 1]). The committee sought appropriate contact details from Qantas and provided them to the submitters so that they may contact Qantas about their concerns if they wish.

- 28 September 2023 in Canberra.
- 1.4 A list of the organisations and individuals who gave evidence at these public hearings can be found in Appendix 2. The public submissions, additional information received and Hansard transcripts are available on the committee's website.

Acknowledgement

- 1.5 The committee thanks all those who contributed to the inquiry by making submissions, appearing at public hearings or providing additional information, particularly in light of the short timeframe for this inquiry.

Note on references

- 1.6 References to the *Committee Hansard* are references to a proof (uncorrected) committee transcript. Page numbers may differ between proof and official transcripts.

Structure of this report

- 1.7 The Senate established this inquiry following widespread public interest in a decision of the federal government to refuse a request to grant additional routes under the air service agreement between Australia and Qatar. Much of the evidence received during this inquiry focussed on that decision, but also encompassed broader commentary about challenges and opportunities for the future of aviation in Australia.
- 1.8 Considering the substantial volume of evidence received in this inquiry, and its short timeframe, this report does not exhaustively cite all written and oral submissions. The report reviews key evidence via the following four chapters:
- This chapter outlines the conduct of the inquiry and provides brief background information.
 - Chapter 2 discusses key evidence about Australia's approach to air service agreements and the recent decision regarding Australia's agreement with Qatar.
 - Chapter 3 examines broader issues relating to Australia's aviation industry.
 - Chapter 4 provides the committee's comment and recommendations.

Background on air service agreements

- 1.9 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) submitted that the Chicago Convention of 1944, which 'sets up the framework for international civil aviation', also 'enshrines the principle of sovereignty over the airspace above the state's territory'. It explained the purpose of air service agreements:

Markets for international air services are closed until and unless governments agree between them to open the market, through bilateral air

services agreements. Even then, this exists only to the extent the governments agree to open the market.

Bilateral air services agreements are treaty level, legally binding and enforceable agreements that allow for scheduled international air services between countries.⁴

1.10 DITRDCA publishes a list of 'all Australia air services agreements' on its website, with copies of the treaty text available on the Department of Foreign Affairs and Trade Treaties Database. The agreements:

...set the overarching legal framework for services between two countries. Key provisions include designation of airlines, application of national laws, airlines' rights to establish offices, deploy staff, remit currency, customs duties, safety and security frameworks, and the routes that may be operated.⁵

1.11 DITRDCA provided further explanation about air service agreements:

In order to enter into force, Air Services Agreements are required to undergo Australia's treaty making process, including approval of Ministers, Federal Executive Council approval, tabling in the Parliament and consideration by Joint Standing Committee on Treaties.

Supporting Memorandum of Understanding (MOU) are used to outline detailed commercial opportunities between countries. In the lead up to consideration of MOU aeronautical authorities of both countries seek their respective Minister's approval for their respective negotiating mandates.

MOU's are generally signed between 'aeronautical authorities' and can include, capacity entitlements (number of seats or frequency of services), code share rights and traffic rights for airlines of both countries.

MOUs are not made public as they can contain confidential commercial information, however the key aspects of our MOU's (i.e. the capacity entitlements) are made available to stakeholders as required.⁶

1.12 Regarding the process for negotiating bilateral agreements, DITRDCA advised:

Bilateral agreements are negotiated between Governments by Government officials.

Requests for updated or new air services arrangements are put forward by the aviation authority of one country to another – this could be through a formal letter or informal discussions.

The Department seeks agreement from the Minister for Infrastructure, Transport, Regional Development and Local Government on negotiating positions for future bilateral talks.

⁴ Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA), *Submission 13*, pp. 3–4. Information on the Chicago Convention is also in Qantas, *Submission 147*, p. 5.

⁵ DITRDCA, *Submission 13*, p. 5.

⁶ DITRDCA, *Submission 13*, p. 5.

Markets are prioritised factoring in a range of factors including, but not limited to, stakeholder support and whether provisions in current agreements remain appropriate.⁷

1.13 DITRDCA reported that Australia has agreements with over 100 countries. Most of these agreements include capacity limits, though Australia has 'open capacity access arrangements with our seven current biggest international arrival markets: New Zealand, China, US, UK, Japan (excluding Haneda), India and Singapore'.⁸ Open capacity access arrangements, also known as 'open skies' agreements, refer to agreements that do not include capacity limits (such as limits on the routes, frequency of flights, or number of passengers that airlines may service).⁹

1.14 Since 2016 'a number of major open access agreements have been put in place, including with China and India, as well as significant capacity increases to a number of markets including the United Arab Emirates, Malaysia, Philippines, South Korea and Vietnam'.¹⁰ However:

Challenges remain in progressing Australia's international bilateral aviation policy, for example previous attempts by Australia to achieve a more open access type agreement with the EU have not progressed, while talks with some countries since 2016 did not always lead to updated or increased air services arrangements.¹¹

1.15 The Australian Government has 'a bilateral air services forward negotiating program to deliver on the Government's policy agenda for international aviation'. The program is not publicly available. DITRDCA said the department:

...consults widely with Australian stakeholders including airlines, airports, tourism bodies, state governments and other departments in developing advice to the Minister on the proposed program.¹²

1.16 In speaking about the length of time bilateral agreement negotiations can take, DITRDCA noted that a previous request by Qatar Airways was submitted in 2018 and the then Government's decision was made in December 2021. DITRDCA added that there is a level of complexity as it is an international negotiation and therefore negotiations can take many years. In this example, COVID-19 was a contributing factor in relation to the length of time taken.¹³

⁷ DITRDCA, *Submission 13*, p. 5.

⁸ DITRDCA, *Submission 13*, p. 3, Attachments 1 and 2. See also Qantas, *Submission 147*, p. 5.

⁹ See, for example, Victorian Chamber of Commerce and Industry, *Submission 19*, [p. 3].

¹⁰ DITRDCA, *Submission 13*, pp. 4, 8.

¹¹ DITRDCA, *Submission 13*, p. 8.

¹² DITRDCA, *Submission 13*, p. 6.

¹³ Mr Richard Wood, First Assistant Secretary, International Aviation and Technology Services, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 11.

Chapter 2

Air service agreements and the Qatar decision

2.1 The committee received a range of evidence about Australia's approach to bilateral air service agreements in general. Commensurate with recent public interest and debate, many inquiry participants paid particular attention to the government's recent decision to refuse a request from Qatar to grant additional capacity under Australia's agreement with Qatar. This chapter reviews key issues raised in evidence as follows:

- Australia's approach to negotiating air service agreements in general.
- Examination of the recent Qatar decision.
- Effects of the recent Qatar decision.
- Transparency in negotiations and decisions about air service agreements.
- Upcoming bilateral air service agreement negotiations.

Australia's approach to air service agreements

2.2 The recent Aviation Green Paper, *Towards 2050*, provides an explanation of Australia's policy in relation to bilateral air service agreements:

The policy of successive Governments has been to negotiate bilateral agreements that provide 'capacity ahead of demand'. In a number of cases, Australia has secured an 'open-skies' style agreement with major aviation markets, which remove restrictions on flights.¹

2.3 The 'capacity before demand' approach:

...has meant that airlines have the ability to plan to access future routes subject to their own commercial considerations and subject to meeting the safety and security requirements of both countries. In only a handful of cases, airlines are unable to access sufficient capacity under the bilateral arrangements to meet their commercial requirements.²

2.4 The Australian Government 'proposes to continue the current "Capacity ahead of Demand" approach, and negotiate "Open Skies" style agreements where it is in the national interest and can be bilaterally agreed'. As above, 'capacity ahead of demand' has been the policy of successive governments. The Green paper observes:

The current approach to bilateral air services negotiations appears well adapted to continue to seek benefits in the national interest including providing further opportunities for our aviation, tourism and trade

¹ Australian Government, *Aviation Green Paper: Towards 2050*, 7 September 2023, p. 185.

² Australian Government, *Aviation Green Paper: Towards 2050*, 7 September 2023, p. 186.

industries and providing connectivity and competition benefits for passengers.³

- 2.5 A range of inquiry participants expressed support for the notion of 'capacity before demand', and some highlighted the benefits of 'open skies' agreements where appropriate. For instance, the Victorian Chamber of Commerce and Industry submitted that 'an "Open Skies" approach would help develop Australia's international air services'.⁴ The Australian Chamber – Tourism said that '[a]ny limitations on inbound and outbound capacity will stunt the growth of tourism and travel, through seat numbers and price competitiveness'.⁵ The Acting Chief Executive Officer of Melbourne Airport, Mr Jim Parashos, drew a distinction between liberalisation of air service agreements and open skies:

Liberalised air service agreements, where capacity to airlines is provided well in advance so they can make informed decisions, are very important. It's not necessarily open skies. I think open skies is the ultimate goal, but we do think there is a long way to go in terms of capacity ahead of demand.⁶

- 2.6 The Australian Airports Association supported 'a more liberalised' bilateral air service agreement framework, and gave a rationale:

Liberalising [bilateral air service agreements] through an 'Open Skies' approach would help develop and maintain Australia's connectivity with the global aviation network. Certainty in aviation routes (capacity) are enhanced when bilateral agreements are negotiated ahead of time (demand). Additionally, capacity should be to any internationally capable airport, and not prescriptive on limiting capacity to any single airport. Forecasting bilateral capacity ahead of demand provides the certainty for airlines to plan procurement and deployment of aircraft as well as for airports to plan improvements to infrastructure and terminal capacity. Increasing competition also promotes best value for customers and allows international airlines to compete to provide enhanced service levels, reliability and connections for customers.⁷

- 2.7 The Australian Travel Industry Association supported the negotiation of agreements that provide capacity ahead of demand and said the 'most effective option to increase capacity and allow it to adapt to demand variation over time, is the negotiation of adequate capacity limits that offer significant margin for growth'.⁸ Regarding implementation of this policy:

³ Australian Government, *Aviation Green Paper: Towards 2050*, 7 September 2023, p. 186.

⁴ Victorian Chamber of Commerce and Industry, *Submission 19*, [p. 2].

⁵ Australian Chamber – Tourism, *Submission 10*, [p. 1].

⁶ Mr Jim Parashos, Acting Chief Executive Officer, Melbourne Airport, *Proof Committee Hansard*, 26 September 2023, p. 36.

⁷ Australian Airports Association, *Submission 7*, pp. 1, 6. Also see, for example, Brisbane Airport, *Submission 12*, p. 4.

⁸ Australian Travel Industry Association, *Submission 1*, p. 2.

Over the past decade, there are several examples of effective implementation of the 'capacity ahead of demand' policy – notably 'open skies' agreements for secondary hubs such as Malaysia and the Philippines.

However, as the COVID-pandemic recovery continues, a number of markets have remained near or at capacity over that period – Hong Kong, Fiji, Japan (Haneda) and Qatar.⁹

2.8 The Australian Travel Industry Association recommended that:

Australia should seek to increase the number of open skies arrangements with likeminded Indo-Pacific countries to increase competition to lower prices for Australians and international travellers who wish to visit Australia.¹⁰

2.9 Brisbane Airport Corporation in its submission noted the need for greater coordination and planning:

Better coordination between the Commonwealth's ability to negotiate slots in bi-lateral agreements and airport operating companies' abilities to offer incentives to airlines serving priority markets could provide greater growth in air services to Australia and reduce unproductive competition by jurisdictions for limited numbers of slots.¹¹

2.10 In addition, Mr Ryan Both, Executive General Manager, Aviation, Brisbane Airport Corporation supported further liberalisation measures:

Certainly I'd reinforce the remarks about liberalisation. If a bilateral system is to be effective it needs to provide capacity ahead of demand so that carriers have multiple years to make decisions and planning decisions. These are not decisions that can be taken within a few months. In the situation where a carrier has an intent to operate, if we have some of the largest, best-known and well-respected carriers in the world wanting to operate to Australia, we should welcome that with open arms.¹²

2.11 Mr Matt Brown, General Manager, Corporate Affairs, Perth Airport also supported 'any move to liberalise access', noting that the post-COVID era has presented significant challenges for the airport.¹³

2.12 Sydney Airport observed that while Australia has seven open skies agreements, the United States has 130 such agreements and Singapore has more than 60.¹⁴ It spoke positively of the open skies agreement struck between Australia and China in 2016; since then:

⁹ Australian Travel Industry Association, *Submission 1*, p. 8.

¹⁰ Australian Travel Industry Association, *Submission 1*, p. 2.

¹¹ Brisbane Airport Corporation, *Submission 12*, p. 4

¹² Mr Ryan Both, Brisbane Airport Corporation, *Proof Committee Hansard*, 26 September 2023, p. 37.

¹³ Mr Matt Brown, Perth Airport, *Proof Committee Hansard*, 22 September 2023, p. 66.

¹⁴ Sydney Airport, *Submission 2*, pp. 1, 2.

...passengers doubled to around 160,000 per month, or 1.4 million annually, and incoming tourists each spent \$9,200 on average, contributing over \$12 billion to the national economy. Airfares also decreased by 35% between 2015 and 2019, dropping by 15% in the first year of open skies alone.¹⁵

- 2.13 Sydney Airport's Chief Executive Officer, Mr Geoff Culbert, said that the airport is 'an advocate for further liberalisation of bilateral air rights' and suggested there is room to improve the current approach:

The bilateral process is reactionary, it's drawn out, and it tends to follow an increase in demand for capacity rather than creating supply ahead of time. Airlines make decisions about aircraft purchases and market development years in advance, and, for Australia as a market to be competitive relative to other destinations, airlines require longer-term certainty in accessing air rights on Australian routes. It's Sydney Airport's view that bilaterals should provide no less than five years of growth to provide airlines with certainty around future opportunities to operate services to Australia.¹⁶

- 2.14 The Board of Airline Representatives of Australia supported 'more open bilateral arrangements' and advocated 'as a minimum...for an even more forward-thinking approach [than] the government's current "capacity ahead of demand" stated policy'. It stated that '[i]nternational airlines provide significant economic value to the Australian economy – every new airline service brings new and additional inbound visitors to Australia, increases cargo capacity, and facilitates business and economic opportunities.'¹⁷ The Board also submitted:

Restricted bilateral arrangements add further risk to commercial decision-making, and if there is little perceived prospect of change, can ultimately drive demand to other destinations who are competing with Australia for growing airline capacity.¹⁸

- 2.15 The Board of Airline Representatives of Australia further submitted:

As independent, economically rational and often global aviation service providers, [it] is self-evident to [the Board of Airline Representatives of Australia] that allowing international airlines to increase their services to Australia wherever possible, based on their calculated view of supply & demand but without additional regulatory restrictions, provides the greatest opportunity for them to initiate, build and operate additional air services which irrefutably provide a net economic gain for Australia.¹⁹

- 2.16 Qantas supported rejecting the Qatar request, presenting the following view:

¹⁵ Sydney Airport, *Submission 2*, p. 3.

¹⁶ Mr Geoff Culbert, *Proof Committee Hansard*, 19 September 2023, p. 36. Also see Sydney Airport, *Submission 2*, p. 2.

¹⁷ Board of Airline Representatives of Australia, *Submission 17*, p. 1.

¹⁸ Board of Airline Representatives of Australia, *Submission 17*, p. 2.

¹⁹ Board of Airline Representatives of Australia, *Submission 17*, pp. 2–3.

After a COVID-related hiatus, the program of bilateral engagement on air services agreements is ramping up again. This is critical. While the bilateral system has limitations, it has effectively delivered growth and will continue to do so while the Australian Government explores opportunities for expanded liberalisation. Sequenced case-by-case negotiations, which balance benefits and opportunities, and focus on reciprocity, will enable the progressive liberalisation of air services arrangements that expand Australian airlines' access to the world and allow foreign carriers to increase their access to Australia.²⁰

- 2.17 When Dr Gui Lohmann was asked whether Australia should move towards open skies agreements, he suggested that it would provide a benefit though noted that other avenues could be considered:

...we don't have studies to show whether an open skies agreement or multiple agreements with several countries would be the way to go, but it definitely would avoid that mechanism that we have at the moment, which is a particular airline trying to go above and beyond the threshold and having a decision made by the government of the day, without clear evidence and without transparency. That is for sure.

That does not mean that we shouldn't explore other avenues. Another avenue could be what I said earlier on, which is saying: 'Okay, we do have a mechanism in place, and that mechanism works in this particular way. If you want to go above and beyond your current allocation to the capital city airports, here is the avenue for you develop the Far North.'²¹

- 2.18 Mr Peter Harris, a former Chair of the Productivity Commission, advised that negotiating air service agreements can be 'pretty smooth' in some cases but complex in others, particularly where there is not agreement about the need to expand between the two countries or between carriers in one or both of the countries.²² He explained that the carriers can influence negotiations:

It's not simply a question of the two governments agreeing or disagreeing because the carriers themselves have the ability to strongly influence parties and/or work actively to ensure that even if Australia wants to expand capacity—say we were doing a negotiation with the UK; if an Australian carrier doesn't want to see that expanded, it can encourage its UK alliance partner to ensure the UK doesn't offer us the capacity to expand. There are always, in the contentious ones, multiple-level negotiations going on.²³

- 2.19 Mr Harris confirmed that agreements which allow more access do not automatically equate to more flights, because 'carriers are not obliged to use their capacity'. He further explained:

²⁰ Qantas, *Submission 147*, p. 5.

²¹ Dr Gui Lohmann, Cluster Leader, 'The Future of Aviation', Griffith Institute for Tourism, Griffith University, *Proof Committee Hansard*, 26 September 2023, p. 78.

²² Mr Peter Harris, *Proof Committee Hansard*, 26 September 2023, pp. 85–86.

²³ Mr Peter Harris, *Proof Committee Hansard*, 26 September 2023, p. 86.

Because 'open skies' was a thing and everybody was in principle in favour—or the larger developed countries were in favour of this. But, surprisingly, every time we'd meet, we'd find that our version of 'open skies' didn't match the UK's version of 'open skies'. Then you'd be back to putting additional capacity into the agreement that your carriers could pick up and use if they so chose, but they weren't obliged to do so. Beyond that—I'll stick with the UK because it's a good way of clarifying it—if me and my UK counterpart negotiated a substantial increase in capacity and an Australian carrier wanted to use what we'd negotiated, they'd then have to get extra sourced at Heathrow. You get to use triumphalist statements about fantastic improvement in our national air services capacity at the bilateral negotiating level, but in practice you've still got to get the rights to land and to the park at times that will attract the sorts of passengers that you as a carrier are likely to have under your management.²⁴

2.20 In describing the current situation, the Productivity Commission said '[a]ccess to international aviation markets is governed by a complex web of government-to-government bilateral air services agreements'.²⁵ It supported further liberalisation, submitting that:

...although Australia's international aviation policy settings have generally served Australia well, there would likely be net benefits to the Australian community from further liberalisation of international air services – specifically, from granting international airlines greater access to Australia's major airports (Brisbane, Melbourne, Perth and Sydney).²⁶

The recent Qatar decision

2.21 This section reviews key evidence regarding the Government's recent decision to decline Qatar's request to increase capacity under the applicable bilateral air service agreement, as follows:

- Background to the decision.
- Timeline of the decision.
- The basis for the decision.
- The national interest.

2.22 Subsequent sections examine evidence about effects of the decision.

Background to the decision

2.23 Qatar Airways confirmed that its 'operations to Australia's main gateways (Sydney, Melbourne, Brisbane, Perth) are restricted to 28 weekly frequencies, with a cap of 7 weekly flights per gateway, an additional 7 weekly frequencies

²⁴ Mr Peter Harris, *Proof Committee Hansard*, 26 September 2023, p. 86.

²⁵ Productivity Commission, *Submission 8*, p. 3.

²⁶ Productivity Commission, *Submission 8*, p. 3.

under the Regional Package and unrestricted capacity to secondary airports'.²⁷
Qatar Airways added:

This is the lowest capacity entitlement awarded to any airline from the Gulf and the wider Middle East currently operating into Australia. In contrast, Qantas' partner Emirates Airlines is allowed to operate 105 weekly flights, Etihad Airways can operate another 56 weekly flights and Air Arabia can operate 7 weekly flights. Additionally, the carriers of United Arab Emirates can operate a total of 21 weekly flights under the Regional Package, and unrestricted capacity to secondary airports.²⁸

2.24 Qatar Airways emphasised that while it is using its full entitlements, including the Regional Package entitlement, their regional competitors, who they identified as Emirates, a code share partner of Qantas, 'only utilise 77 out of the 168 available weekly flights to the main gateways for airlines of the United Arab Emirates, and zero frequencies from the 21 weekly frequencies available under the Regional Package and zero to secondary airports'.²⁹

2.25 Qatar Airways also highlighted that it has a record of working very closely with Australian authorities 'during crisis situations, demonstrating Qatar Airways' support for Australian nationals and residents during difficult times'. This includes during the COVID-19 pandemic, when Qatar Airways:

...continued operating to Australia, providing critical connectivity to Australians stranded all over the world, transporting medical supplies and Australian workers and supporting the supply chain through charter flights. We facilitated evacuations at the request of Australian embassies and consulates.³⁰

2.26 According to Qatar Airways, in August 2022 the Qatar Civil Aviation Authority requested:

...28 additional weekly flights to Australia's main gateways with 7 additional weekly flights under the Regional Package. This would offer more connectivity to Australian consumers and exporters, reaching a total of 56 weekly flights to the main gateways and 14 weekly flights under the Regional Package which is still far below the capacity entitlement of our regional competitors.³¹

2.27 The Chamber of Commerce and Industry Western Australia highlighted the following comments about Qatar's request by the Premier of Western Australia, the Hon Roger Cook MLA:

²⁷ Qatar Airways, *Submission 71*, p. 4.

²⁸ Qatar Airways, *Submission 71*, p. 4.

²⁹ Qatar Airways, *Submission 71*, p. 5.

³⁰ Qatar Airways, *Submission 71*, p. 5.

³¹ Qatar Airways, *Submission 71*, p. 5.

At the moment we are particularly disadvantaged by the lack of competition in our domestic aviation market...

...

We think that more flights with Qatar is a great opportunity for WA, and we think they should have been backed when it came to their requests for extra routes in Australia.

...

I think blocking Qatar Airways around more flights to Western Australia is not in the interest of the West Australian people or the Western Australian economy.³²

2.28 Mr Christopher Rodwell, Chief Executive Officer, Chamber of Commerce and Industry Western Australia, made similar comments:

It has shown over the long term its commitment to Western Australia. Throughout the pandemic, it was Qatar Airways that kept 777s in the air, on average four times a week, bringing in stranded Western Australians and other Australians, and flying out with the product of our exporters in the belly of their planes. It's difficult to conceive how there could be an immediate-term commercial case for providing that service during a pandemic. Frankly, Western Australia is indebted to Qatar Airways...³³

2.29 Mr Jim Parashos, Acting Chief Executive Officer, Melbourne Airport also highlighted:

We also felt that, during the COVID period, when Victoria in particular went through a very difficult time, Qatar Airways really stood up to bring in medical supplies and to repatriate many Australians from far afield that other carriers didn't operate to. We thought it was appropriate to provide additional capacity.³⁴

Timeline of the decision

2.30 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) took the committee through the timeline in relation to the request from Qatar Airways. The request was received by DITRDCA on 22 August 2022 and it was considered 'a straightforward amendment to the MOU which forms part of a treaty which establishes the capacity arrangements'.³⁵

³² The Hon Roger Cook MLA, Premier of Western Australia, quoted by Mr Rodwell, Chamber of Commerce and Industry Western Australia, *Proof Committee Hansard*, 22 September 2023, pp. 58–59.

³³ Mr Christopher Rodwell, Chamber of Commerce and Industry Western Australia, *Proof Committee Hansard*, 22 September 2023, p. 57.

³⁴ Mr Jim Parashos, Melbourne Airport, *Proof Committee Hansard*, 26 September 2023, pp. 33–34.

³⁵ Mr Richard Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 6.

2.31 At the time the Qatar request was received, DITRDCA was ‘going through a process of establishing advice to government on our international priorities for the forward year’. This process commenced on 2 August 2022 and included writing out to 57 stakeholders.³⁶ Mr Richard Wood First Assistant Secretary, International Aviation and Technology Services, DITRDCA explained:

Then in the case of Qatar the negotiating advice we were providing to government came very close after that process, so our follow-up stakeholder engagement was more targeted to the specific airlines, Qantas and Virgin, because the negotiations there were focusing very much on capacity arrangements and we already had advice from our stakeholders on the broader economic and other issues associated with our programs. In the case of some other negotiations we are looking at that come later in the year— Turkey and Vietnam have been talked about— we’ve gone out to the broader range of stakeholders. As I said, we have a list of 57 stakeholders we go out to typically, and where we get advice from others we can take that into account as well.³⁷

2.32 In relation to the specific Qatar request, only Qantas and Virgin were consulted by DITRDCA. This occurred on 30 September 2022, with Qantas making a submission on 14 October 2022 and Virgin on 26 October 2022.³⁸ When asked why these two airlines were particularly relevant, Mr Richard Wood, DITRDCA, explained:

They’re the two Australian carriers that operate in the international market, with the exception of some smaller freight carriers, who don’t operate on those routes. So they operate internationally and they’re also, of course, the dominant domestic players as well.³⁹

2.33 In January 2023, Virgin Australia met with the minister where the Qatar Airways application was discussed. Ms Carla Jayne Hrdlicka, Chief Executive Officer and Managing Director, Virgin Australia stated that she thought the application would be approved:

...Qatar also came up twice in conversations I had with the transport minister, Catherine King, during this period, once on January 2023 and again on 1 May.

Our January discussion was, as you would expect at the start of a new year, very much about the year ahead for the aviation industry and Virgin Australia after a really difficult and challenging 2022, as well as to understand the minister’s priorities for 2023. The Qatar bid was raised at the end of that nearly one-hour discussion, perhaps for five minutes at best.

³⁶ Mr Richard Wood, First Assistant Secretary, International Aviation and Technology Services, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 4. See also document 11 tabled by DITRDCA at the 28 September 2023 public hearing.

³⁷ Mr Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 3.

³⁸ Mr Richard Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, pp. 4–6.

³⁹ Mr Richard Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, pp. 5–6

During this conversation it was indicated to us that the negotiating mandate for additional Qatar flights would be released to department of transport the following week.⁴⁰

- 2.34 Ms Hrdlicka indicated that following her meeting with the minister in January 2023, she was left with *'a very clear impression that a decision to proceed was very compelling and imminent. Based on this conversation, I felt comfortable that Qatar would be granted additional air rights'*.⁴¹
- 2.35 Ms Hrdlicka stated that the 'minister also said that my Qantas counterpart, then Alan Joyce, had heard that her department was recommending negotiations with Qatar should commence, and he was not happy and had asked to speak with her'.⁴²
- 2.36 A DITRDCA brief, containing a 'negotiating mandate' in response to Qatar's request was signed by the department on 4 January 2023 and received by the minister on 9 January 2023.⁴³ A departmental official agreed with the description of the brief as 'a decision brief for the minister as to whether or not negotiations or consultations should be entered into with Qatar'. The official said 'essentially it's an approach—we call it a mandate, but it's an approach—as to how we should engage with that particular country'.⁴⁴
- 2.37 Qatar Airways reported that its representative met the Minister for Infrastructure, Transport, Regional Development and Local Government at the 'Annual Prime Minister and Ministry Dinner 2023', which was on 1 March 2023 in Sydney 'with the Prime Minister, Hon. Anthony Albanese MP and the Federal Ministry'.⁴⁵ Mr Fathi Atti, Senior Vice President Aeropolitical and Corporate Affairs, Qatar Airways, said of this meeting with the minister:
- I said: 'We ticked all the green boxes for our application. Minister, is there any progress?' But there was no indication from her side saying yes or no, but it wasn't negative at that time.⁴⁶

⁴⁰ Ms Carla Jayne Hrdlicka, Chief Executive Officer and Managing Director, Virgin Australia, *Proof Committee Hansard*, 27 September 2023, 32.

⁴¹ Ms Carla Jayne Hrdlicka, Chief Executive Officer and Managing Director, Virgin Australia, *Proof Committee Hansard*, 27 September 2023, 32. Emphasis added.

⁴² Ms Carla Jayne Hrdlicka, Chief Executive Officer and Managing Director, Virgin Australia, *Proof Committee Hansard*, 27 September 2023, p. 32.

⁴³ Mr Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 7.

⁴⁴ Mr Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 9.

⁴⁵ Qatar Airways, answers to questions on notice, 27 September 2023 (received 29 September 2023), p. 1; Mr Fathi Atti, Senior Vice President Aeropolitical and Corporate Affairs, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, pp. 2, 6.

⁴⁶ Mr Atti, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, p. 2.

2.38 On 31 March 2023, at the Qantas Gala Dinner, the Prime Minister, the Hon Anthony Albanese MP, said:

And every day in that job, I knew if there was a crisis, anywhere in the world, whether it was a natural disaster or a violent uprising, I knew I could pick up the phone and Qantas would swing into action, getting Australians to safety.⁴⁷

2.39 Qantas advised that the Board endorsed the decision to place the Yes23 logo on aircraft in April 2023.⁴⁸

2.40 Ms Hrdlicka told the committee that Virgin began to have concerns in April 2023:

In April, we began to hear noise that Qatar's bid had stalled, and we knew that negotiations had not commenced, and we became concerned. In my 1 May conversation with Minister King, which was primarily to update her on industrial relations, the minister indicated there was some challenge regarding the Doha airport incident of 2020, which we then discussed. This was a very different conversation from my conversation with the minister in January. I was now concerned the air rights may not be granted. As the weeks passed, that concern only grew.⁴⁹

2.41 Due to growing concern about the Qatari request, Virgin Australia sought a meeting in May with the Prime Minister:

At that point I thought it appropriate to speak with the Prime Minister. We first made a request to the Prime Minister's office for such an opportunity on 23 June, and we spoke upon his return from overseas on 13 July. As part of what was a broad-ranging and lengthy discussion reflecting the Prime Minister's interest in and knowledge of the sector, I raised the Qatar issue. He, too, expressed concern about the 2020 Doha airport incident. I was surprised by this, given my understanding that there had been a diplomatic resolution on the issue between the governments of Qatar and the federal government and as there was a legal case being brought before the Australian courts by some of the Australian victims seeking financial compensation.⁵⁰

2.42 Responding to questions on notice, Qantas advised that the date of 14 August 2023, for the event where Qantas confirmed its support for the

⁴⁷ The Hon Anthony Albanese MP, Prime Minister, Transcript of speech at Qantas Gala Dinner, 31 March 2023, <https://pmtranscripts.pmc.gov.au/release/transcript-44867> (accessed 6 October 2023).

⁴⁸ Qantas, responses to questions on notice from the 27 September 2023 public hearing and written questions on notice, received 5 October 2023.

⁴⁹ Ms Carla Jayne Hrdlicka, Chief Executive Officer and Managing Director, Virgin Australia, *Proof Committee Hansard*, 27 September 2023, 33.

⁵⁰ Ms Carla Jayne Hrdlicka, Chief Executive Officer and Managing Director, Virgin Australia, *Proof Committee Hansard*, 27 September 2023, 33.

Indigenous Voice to Parliament with Yes23 logos unveiled on three planes, was set in early July 2023.⁵¹

2.43 The minute received by the minister on 9 January 2023 was signed by the minister on 10 July 2023 and received formally by the department on 13 July 2023.⁵²

2.44 In a letter dated 10 July 2023 and dispatched on 17 July 2023, the minister wrote to five Australian women who were invasively strip searched at a Qatari airport in 2020, indicating that '[t]he Australian government is not considering additional bilateral air rights with Qatar.'⁵³

2.45 The Prime Minister has said he was informed of the decision 'by the Minister for Infrastructure, Transport, Regional Development and Local Government after I had a discussion with the Virgin CEO, which was on 13 July'.⁵⁴ On 13 July 2023, the Prime Minister spoke with the CEO of Virgin Australia by phone from Perth while in transit to Canberra. The Prime Minister stated:

In that call the CEO made representations relating to air services arrangements with Qatar. During that discussion I did not know that the transport minister had made a decision on 10 July 2023, a detail that was only advised to me after question time today. I once again confirm I did not speak to the former Qantas CEO before a decision was made.⁵⁵

2.46 Prior to, and during this inquiry, the Prime Minister, ministers, government agencies and Qantas representatives have refused or been unable to detail the extent of any other conversations that took place between Transport Minister Catherine King's office, the Prime Minister's Office and Qantas government relations representatives, in advance of the minister making her decision. The Government and Qantas representatives have failed to respond satisfactorily to opportunities to provide such details through questions and Senate orders for release of documents in the Parliament, by the media, by Freedom of Information, or through direct questions at public hearings and questions taken on notice through this inquiry.

⁵¹ Qantas, responses to questions on notice from the 27 September 2023 public hearing and written questions on notice, received 5 October 2023.

⁵² Mr Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 9.

⁵³ The minister's letter was published in Robyn Ironside, 'Letter at the centre of Catherine King's Qatar Airways' decision', *The Australian*, 7 September 2023, <https://www.theaustralian.com.au/business/aviation/letter-at-the-centre-of-catherine-kings-qatar-airways-decision/news-story/fcfce9877a8e27291df5ce4eba373bcf> (accessed 4 October 2023); Mr Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 26.

⁵⁴ House of Representatives, *Proof Hansard*, 11 September 2023, p. 82.

⁵⁵ The Hon Anthony Albanese MP, Prime Minister, *House of Representatives Hansard*, 5 September 2023, p. 40.

- 2.47 On 18 July 2023 the Government's decision was reported in media.⁵⁶ This is the same day and the means by which Qatar Airways became aware of the decision.⁵⁷ Qatar Airways received formal advice of the decision on 20 July 2023 in a letter dated 14 July 2023.⁵⁸
- 2.48 Qatar Airways advised that on 16 August 2023 the Qatar Civil Aviation Authority sought a meeting with DITRDCA to understand the decision.⁵⁹ On 27 September 2023, Qatar Airways told the committee that DITRDCA had acknowledged receipt of the request and 'will consider responding as soon as possible'.⁶⁰ The following day, 28 September 2023, media reporting indicated that DITRDCA will schedule a meeting with Qatari officials in relation to the decision as consultations are provided for under Australia's agreement with Qatar within 60 days and this was confirmed by DITRDCA at a hearing that day.⁶¹
- 2.49 DITRDCA confirmed that a review of the decision by government is allowed for at any time but this is a 'matter for the minister'.⁶²

Consultation regarding the decision

- 2.50 DITRDCA advised that '[a]pproval of mandates for each individual bilateral negotiation is a matter for the Minister for Infrastructure, Transport, Regional Development and Local Government'.⁶³ On 11 September 2023 the minister, the Hon Catherine King MP, confirmed to the House of Representatives that the recent Qatar decision was her decision:

I am the transport minister. And—in exactly the same way that the previous transport minister had before him decisions about whether to increase Qatar

⁵⁶ Ayesha de Krester, 'Minister blocks bid to bring down airfares, boost tourism', *Australian Financial Review*, 18 July 2023, <https://www.afr.com/companies/transport/minister-blocks-bid-to-bring-down-airfares-boost-tourism-20230717-p5down> (accessed 4 October 2023).

⁵⁷ Mr Fathi Atti, Senior Vice President Aeropolitical and Corporate Affairs, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, p. 2. See also Qatar Airways, answers to questions on notice from the public hearing on 27 September 2023 (received 29 September 2023).

⁵⁸ Qatar Airways, *Submission 71*, p. 3; Mr Fathi Atti, Senior Vice President Aeropolitical and Corporate Affairs, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, p. 2.

⁵⁹ Mr Jim Wolfe, Assistant Secretary, International Aviation, DITRDCA, *Proof Committee Hansard*, 27 September 2023, p. 41.

⁶⁰ Mr Fathi Atti, Senior Vice President Aeropolitical and Corporate Affairs, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, pp. 2–3.

⁶¹ Elias Visontay, 'Australia agrees to clear-the-air talks with Qatar over controversial airline decision', *The Guardian*, 28 September 2023; Mr Wood, *Proof Committee Hansard*, 27 September 2023, p. 41.

⁶² Mr Wolfe, *Proof Committee Hansard*, 28 September 2023, p. 42.

⁶³ DITRDCA, *Submission 13*, p. 3.

Airlines' access under their bilateral agreements—it is the decision of the transport minister. These are very normal decisions that come before transport ministers. As I have said, again, I consulted with relevant colleagues, but the decision was mine.⁶⁴

2.51 The minister also confirmed that her department 'undertook consultation with relevant aviation stakeholders, and I was well aware of different stakeholders' views when I took the decision.'⁶⁵ The minister has told the House of Representatives:

As you would expect, my department undertook consultation with all relevant aviation stakeholders, and I was aware of different stakeholders' views when I took the decision. I do routinely meet with CEOs of all airlines, airports and peak bodies, and from my recollection the main people lobbying me about Qatar came from Virgin and a third party in my office on behalf of Qatar. The discussions I have had recently with Qantas have been about their concerns about our same job, same pay legislation...⁶⁶

2.52 In September 2023, the Senate ordered several ministers to produce documents that could have helped explain the reasoning and process of the Government's decision. The orders varied but included briefing materials and other documents that informed the decision or were related to the Qatari request.⁶⁷

2.53 In response, both the Minister for Trade and Tourism and the Minister representing the Prime Minister did not provide any documents, stating that none had been identified within the scope of the request.⁶⁸ The Minister representing the Treasurer provided one document: a question time brief with redactions to information outside the scope of the order.⁶⁹

⁶⁴ House of Representatives, *Proof Hansard*, 11 September 2023, p. 83.

⁶⁵ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *House of Representatives Hansard*, 6 September 2023, p. 54.

⁶⁶ House of Representatives Hansard, 6 September 2023, p. 58.

⁶⁷ See *Journals of the Senate (Proof)*, 5 September 2023—No. 66, pp. 1912–1913; *Journals of the Senate (Proof)*, 12 September 2023—No. 70, p. 1993.

⁶⁸ Senator the Hon Don Farrell, Minister for Trade and Tourism, document tabled in the Senate on 12 September 2023, (number 2023-002424), https://www.aph.gov.au/Parliamentary_Business/Tabled_Documents/3384 (accessed 6 October 2023); Senator the Hon Penny Wong, Minister representing the Prime Minister, document tabled in the Senate on 14 September 2023, document number 2023-002443, https://www.aph.gov.au/Parliamentary_Business/Tabled_Documents/3403 (accessed 6 October 2023).

⁶⁹ Senator the Hon Katy Gallagher, Minister representing the Treasurer, document tabled in the Senate on 11 September 2023, document number 2023-002419, https://www.aph.gov.au/Parliamentary_Business/Tabled_Documents/3379 (accessed 6 October 2023).

2.54 Two ministers claimed public interest immunity in response to the orders. The Minister for Infrastructure, Transport, Regional Development and Local Government—who made the decision in relation to Qatar's request—said:

The production of documents falling within the scope of these orders would, or might reasonably be expected to, disclose the nature of bilateral relations with Australia's foreign partners that we have given undertakings to protect. There is a public interest in not disclosing such discussions so the Government's negotiations over air services agreements with a range of countries can continue unimpeded.⁷⁰

2.55 The Minister for Foreign Affairs also referred to international relations, stating:

...disclosure of documents found to potentially be within the scope of the order would prejudice Australia's international relations. Disclosure of such documents would not be in the public interest as it would harm Australia's ability to negotiate international agreements between governments by undermining the trust and confidence in which such agreements are negotiated.⁷¹

2.56 These responses did little to illuminate the extent, if any, of consultations that the Minister for Infrastructure, Transport, Regional Development and Local Government may have conducted with her ministerial colleagues prior to her decision being made. However, the Minister for Foreign Affairs confirmed to the Senate on 11 September 2023 that she was consulted to some degree.⁷²

2.57 In relation to consultation with other government departments on the decision, the Department of Foreign Affairs and Trade (DFAT) confirmed it was not contacted directly by DITRDCA about the Qatari request.⁷³ Mr Jadwat, DFAT, said:

I don't know why we were not consulted in that sense in terms of a direct request. We offer foreign affairs and trade perspectives if requested. On this

⁷⁰ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, in document tabled in the Senate on 15 September 2023 by Senator the Hon Murray Watt, Minister representing the Minister for Infrastructure, Transport, Regional Development and Local Government, document number 2023-002457, https://www.aph.gov.au/Parliamentary_Business/Tabled_Documents/3417 (accessed 6 October 2023).

⁷¹ Senator the Hon Penny Wong, Minister for Foreign Affairs, document tabled in the Senate on 28 September 2023, document number 2023-002495, https://www.aph.gov.au/Parliamentary_Business/Tabled_Documents/3455 (accessed 6 October 2023).

⁷² Senator the Hon Penny Wong, Minister for Foreign Affairs, *Senate Hansard*, 11 September 2023, p. 38.

⁷³ Mr Jadwat, DFAT, *Proof Committee Hansard*, 28 September 2023, p. 23.

occasion, there was no direct request made to us. I'm not sure why there was no direct request made.⁷⁴

- 2.58 In September 2022 DFAT was asked for advice by the office of the Minister for Foreign Affairs, after the minister was advised of the request in the course of engagement with the Australian ambassador in Doha.⁷⁵ In addition, on 19 January 2023, DFAT was asked by the office of the Minister for Foreign Affairs to 'provide input into a request that had been made by the department of transport, through Minister King's office, to Minister Wong's office for advice from DFAT'. This advice was provided on 24 January 2023 via an email to Minister Wong's office from the Middle East Branch in the Middle East and Africa Division.⁷⁶ DFAT was advised of the minister's decision on 12 July 2023.⁷⁷ Treasury and the Department of Prime Minister and Cabinet confirmed that they were not consulted in relation to the Qatar decision.⁷⁸
- 2.59 The ACCC confirmed that it was not consulted in relation to the Qatar decision, with its Chair, Ms Cass-Gottlieb, stating 'We have no role and had no role. We were not consulted. The minister may have taken account of competition or consumer questions without consulting the ACCC'.⁷⁹ On this point, Mr Wood, DITRDCA, told the committee that:
- ...we tend to go to Treasury, as the agency that has got policy responsibility for competition, rather than the ACCC. We do engage with the ACCC on specific issues from time to time, or, indeed, they engage with us on issues from time to time. It tends to be more at the policy end in terms of setting our overarching policy approach.⁸⁰
- 2.60 A range of non-government witnesses were also asked about their involvement in any consultation regarding the Qatar decision.
- 2.61 Mr Stephen Byron, CEO, Canberra Airport confirmed that Canberra Airport was not consulted by the minister or her office in relation to the Qatar Airways

⁷⁴ Mr Jadwat, DFAT, *Proof Committee Hansard*, 28 September 2023, p. 23.

⁷⁵ Mr Jadwat, DFAT, *Proof Committee Hansard*, 28 September 2023, p. 25.

⁷⁶ Mr Jadwat, DFAT, *Proof Committee Hansard*, 28 September 2023, p. 24.

⁷⁷ Mr Jadwat, DFAT, *Proof Committee Hansard*, 28 September 2023, p. 25.

⁷⁸ Ms Mohita Zaheed, First Assistant Secretary, Labour Market, Environment, Industry and Infrastructure Division, Department of the Treasury, *Proof Committee Hansard*, 28 September 2023, p. 44; Ms Narelle Luchetti, First Assistant Secretary, Industry, Infrastructure and Environment Division, Department of Prime Minister and Cabinet, *Proof Committee Hansard*, 28 September 2023, p. 44.

⁷⁹ Ms Cass-Gottlieb, ACCC, *Proof Committee Hansard*, 22 September 2023, pp. 39, 41.

⁸⁰ Mr Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 15.

request.⁸¹ Mr Brenton Cox, Managing Director, Adelaide Airport Ltd⁸² and Mr Anthony Edmondstone, CEO Airport Development Group (Darwin Airport)⁸³ also confirmed they received no contact from the minister or her department. Mr Matt Brown, General Manager, Corporate Affairs, Perth Airport noted their disappointment in the decision adding that they have not had the opportunity to discuss it directly with the minister. Mr Brown indicated that the minister, her office and her department did not consult with them in relation to the decision.⁸⁴ Mr Marc Devine, Chief Financial Officer and Company Secretary, Alliance Airlines, indicated to the committee that ‘I don’t think we’ve ever met the minister’ or anyone from her office or the department. However, he added that Alliance is part of the Regional Aviation Association of Australia based in Canberra which meets with ‘different levels of government all the time’ but they would be happy to ‘meet with anyone who wants to come and talk about aviation, our business or anything, really’.⁸⁵

- 2.62 Mr Adam Rowe, Chief Commercial Officer, Queensland Airports Ltd, Mr Gary Allen, Interim Chief Executive Officer, Sunshine Coast Airport, and Mr Richard Barker, Chief Executive Officer, Cairns Airport, all confirmed they were not approached in relation to the decision.⁸⁶ Mr Barker added that although he has not met with the minister he has exchanged letters in relation to another matter. Mr Rowe reported that, along with his CEO, he met the minister in June in Canberra to discuss a number of issues. Noting that he has only been in the role for five months, Mr Allen reported that he hasn’t met or had any communication with the minister. However Mr Allan added that he was ‘unaware of the last time that the former CEO did meet with the minister’.⁸⁷
- 2.63 Ms Rachel Crowley, Executive General Manager, Communications and Public Affairs, Brisbane Airport Corporation, indicated that they have had one in-person meeting with the minister in August 2022 but have seen her on a number of occasions since at various events.⁸⁸
- 2.64 Mr Michael Kaine, National Secretary, Transport Workers indicated that they were not consulted on the Qatar decision.⁸⁹ Ms Imogen Sturni, Branch Secretary,

⁸¹ Mr Stephen Byron, *Proof Committee Hansard*, 22 September 2023, p. 2.

⁸² Mr Brenton Cox, *Proof Committee Hansard*, 22 September 2023, p. 18.

⁸³ Mr Anthony Edmondstone, *Proof Committee Hansard*, 22 September 2023, p. 18.

⁸⁴ Mr Matt Brown, *Proof Committee Hansard*, 22 September 2023, pp. 66, 67.

⁸⁵ Mr Marc Devine, *Proof Committee Hansard*, 26 September 2023, p. 17.

⁸⁶ Mr Rowe, Mr Allen and Mr Barker, *Proof Committee Hansard*, 26 September 2023, pp. 70-71.

⁸⁷ Mr Rowe, Mr Allen and Mr Barker, *Proof Committee Hansard*, 26 September 2023, p. 71.

⁸⁸ Ms Crowley, *Proof Committee Hansard*, 26 September 2023, p. 33.

⁸⁹ Mr Michael Kaine, *Proof Committee Hansard*, 26 September 2023, p. 45.

Victorian Private Sector Branch, Australian Services Union, also confirmed that they were not involved in the decision.⁹⁰

2.65 Mr Simon Harrison, Chair, Australian Qatar Business Council also responded that they were not consulted by the minister or department on the Qatar Airways request.⁹¹

2.66 Regarding DITRDCA's consultation, Mr Wood gave further reasoning as to why only Qantas and Virgin were invited to submit about the specific request from Qatar:

I think one of the reasons we targeted Virgin and Qantas specifically is that it was an unusual request. Typically, when we have requests for negotiations or we make requests for negotiations we're looking at a wide range of issues, whereas in this instance it was very specifically about capacity issues, not about broader issues. It was a narrower range of issues on which to consult.⁹²

2.67 Mr Wood further elaborated:

As I've indicated, partly because of the contemporaneous nature of it going out around the time that we'd gone out to stakeholders more broadly, several of whom had made detailed commentary in relation to Qatar. It was a fairly narrow request in its specificity. We had a significant amount of data and, as I've indicated, for other arrangements since that time—Turkey, Vietnam and a number of others as well—we've gone out to stakeholders more broadly, recognising both that they're broader requests and that time has moved on.⁹³

2.68 Commenting on the consultation undertaken, Qantas submitted:

The fact that Qantas and other market participants are routinely consulted by government as part of this process shows that this is not a simple yes/no process, and that a number of broader market factors are considered. It also shows there is nothing unusual about Qantas (or any other interested party) being for-or-against the proposal. Each party is entitled to argue in their own interests, with government being the ultimate decision maker.⁹⁴

2.69 In relation to engagement with government, Qantas made the following remarks:

There has been a lot of discussion before the Committee about Qantas' engagement with the Federal Government. The underlying suggestion seems to be that Qantas is not entitled to put forward its position.⁹⁵

⁹⁰ Ms Imogen Sturni, *Proof Committee Hansard*, 26 September 2023, p. 45.

⁹¹ Mr Simon Harrison, *Proof Committee Hansard*, 26 September 2023, p. 55.

⁹² Mr Richard Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 5.

⁹³ Mr Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 6.

⁹⁴ Qantas, *Submission 147*, p. 6.

⁹⁵ Qantas, *Submission 147*, p. 8.

2.70 Additionally, Qantas stated:

It is equally important that any party engaging with the Government or the Opposition be capable of doing so in strict confidence. It is our view that a critical hallmark of a robust democracy is the ability of parties to convey their perspective on issues to the Government and the Opposition without hesitation, and particularly without fear of (lawful and appropriate) confidential disclosures being disclosed inadvertently or deliberately. To accept otherwise is to place in real peril the Government and Opposition receiving candid and important information, perspectives and advocacy.⁹⁶

2.71 Qantas took numerous questions on notice throughout its appearance before the committee. Qantas was unable to identify key dates or provide company employees at the hearing who were in a position to answer critical questions.

Basis for the decision

2.72 The notion of the national interest has been cited by the minister as a basis for her decision regarding Australia's agreement with Qatar:

From the very start, I have said that we considered a range of issues in determining what the national interest was in this case. I know that there are some businesses and some airlines which would have liked to see me make a different decision, particularly those who have significant commercial interests at stake. I have not based this decision on any one company's or any one person's commercial interest but on the national interest. I am supporting recovery and sustainable growth in our aviation sector, at the same time doing my best to ensure that when Australians travel overseas they can have confidence in how they are treated.⁹⁷

2.73 The Government has never specifically detailed the national interest grounds on which the request was rejected but has put forward at least 12 different arguments at various times for declining the Qatar Airways request and these are listed below:

- **Human Rights.** The Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Catherine King MP, said:

So I would say to your listeners that it did [the invasive strip searches of women at Doha Airport] provide context to the decision.⁹⁸

- **Decarbonise aviation.** Minister King said:

⁹⁶ Qantas, *Submission 147*, p. 9.

⁹⁷ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *House of Representatives Hansard*, 5 September 2023, pp. 36–37.

⁹⁸ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, Transcript, Radio Interview, ABC with Sabra Lane, 7 September 2023.

I want more capacity for people to be able to enjoy travel, but equally I want to be able to decarbonise the transport sector, aviation has a role to play in that as well, so there's a mix of things I look at.⁹⁹

- **Protecting Australian jobs.** Minister King said:

[W]e will always consider the need to ensure that there are long-term well-paid secure jobs for Australians in the aviation sector when we are making this decision.¹⁰⁰

- **Qantas' recent purchase of new planes.** Minister King said:

Decisions airlines have made, you know, decisions about what their capacity is based on, you know, there have been staffing issues, a whole range of things, but what you're seeing is more capacity start to come back on. You've got our major airline, Qantas, has just purchased, you know brand new planes, that's at a significant cost, and we're going to see those, they're bigger planes...But we've also seen a lot of the international carriers increase their capacity and starting to ask to increase capacity as well.¹⁰¹

- **Threat to domestic aviation industry:** The Assistant Treasurer, the Hon Stephen Jones MP, was reported stating that Qantas' record \$2.5 billion profit was 'a good news story' and that the Albanese government blocked extra Qatar Airways flights to keep the national carrier profitable. He said:

Having a national airline that occasionally posts a profit is not a bad news story. It's actually a good news story.¹⁰²

- **Not in the 'national interest'.**

- Minister King said:

In the case of the Qatar Civil Aviation Authority's request, I determined that it was not in Australia's national interest to grant their request for an additional 28 flights per week.¹⁰³

- Senator the Hon Penny Wong, Minister for Foreign Affairs, said:

⁹⁹ Latika Bourke, 'Minister denies searches of Australian women in Doha behind move to block Qatar Airways', *Sydney Morning Herald*, 26 July 2023, <https://www.smh.com.au/world/europe/minister-denies-searches-of-australian-women-in-doha-behind-move-to-block-qatar-airways-20230723-p5dqmr.html> (accessed 6 October 2023).

¹⁰⁰ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *House of Representatives Hansard*, 9 August 2023, p. 64.

¹⁰¹ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, Radio 4CA, 15 August 2023.

¹⁰² Ronald Mizen and Ayesha de Krester, 'Labor blocked Qatar flights to protect Qantas' profit', *Australian Financial Review*, 28 August 2023, <https://www.afr.com/politics/federal/record-qantas-profit-good-news-in-the-national-interest-labor-20230828-p5dzz5> (accessed 6 October 2023).

¹⁰³ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *House of Representatives Hansard*, 6 September 2023, p. 65.

The first point I'd make is that the minister has made clear publicly that, first, she's the decision-maker and that she considers a range of factors when determining whether an expansion of bilateral air rights is in our national interest.¹⁰⁴

- **Qatar Airways' unused access.** The Deputy Prime Minister, the Hon Richard Marles MP, said:

Well, there's a whole range of issues which go to any given agreement. The issue with Qatar specifically is they've got access to the Australian market right now, which they are not using.¹⁰⁵

- **Applications from other airlines to increase capacity.** Minister King said:

We're seeing a huge amount more capacity actually come into the international market. We already have Singapore Airlines, Emirates has already increased their capacity, we've got Hong Kong, I think Vietnam Airlines is also looking to increase its capacity in Australia and we're making consideration of those requests at the moment and I see from reports in the media that Turkish Airlines are intending to eventually apply also to increase its capacity and we are constantly working on that. And we've got an open skies agreement with Singapore Airlines and continue to work with them in terms of their capacity.¹⁰⁶

- **The aviation market is already competitive.** The Prime Minister, the Hon Anthony Albanese, said:

We have the most competitive aviation market in the world, bar none.¹⁰⁷

- **What is happening in the aviation and international aviation market at the moment.** Ms Marisa Purvis-Smith, DITRDCA, said:

As we mentioned—and we can go through—there were a range of reasons that the minister took into account for Qatar. The minister has indicated that she took into consideration a range of factors. They included **what is happening in the aviation and international aviation market at the moment; what is happening with the COVID recovery; what is happening with the capacity coming back into the system, particularly from other aviation suppliers and where they are up to;** and the impact on jobs in the long term. They were a range, but not the definitive full set, of factors that she took into account. Ultimately, it is a decision for the minister.¹⁰⁸

- **What is happening with the COVID recovery** (see quote above).

¹⁰⁴ Senator the Hon Penny Wong, Minister for Foreign Affairs, *Senate Hansard*, 5 September 2023, p. 24.

¹⁰⁵ The Hon Richard Marles MP, Deputy Prime Minister, *The Today Show*, 1 September 2023.

¹⁰⁶ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, Transcript, Press Conference, Cairns, 15 August 2023.

¹⁰⁷ The Hon Anthony Albanese MP, Prime Minister, *House of Representatives Hansard*, 4 September 2023, p. 55.

¹⁰⁸ Ms Marisa Purvis-Smith, Deputy Secretary, Transport Group, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 4. [emphasis added]

- **What is happening with the capacity coming back into the system** (see quote above).

2.74 Mr Fathi Atti, Senior Vice President Aeropolitical and Corporate Affairs, Qatar Airways indicated that these reasons had not been put to them:

Not to our knowledge. Nothing was raised for Qatar Airways. It is not to our knowledge that it was raised even with our government.¹⁰⁹

2.75 There has also been discussion about whether Qatar Airways can increase its flights to and from Australia under existing arrangements, even though Qatar's request for increased capacity was declined. On 4 September 2023, the Prime Minister, the Hon Anthony Albanese MP told the House of Representatives:

...Qatar Airways can add more seats into Australia today—right now. It comes from a complete failure to understand the way that the international aviation system works, which is through agreements between nations, not with airlines—agreements between nations are what occur. They are certainly welcome to do so, and they can fly as many flights as they like into Adelaide, into the Gold Coast, into Avalon, into Hobart and into Canberra, where there used to be international flights...They can also, today, change the 777s into A380s and fly more people in here...¹¹⁰

2.76 A similar viewpoint was presented by Qantas:

As has been subsequently reported, there is plenty of opportunity for airlines, including Qatar Airways, to add more flights to Australia under the current arrangements. The capacity [the Qatar Civil Aviation Authority] applied for represented an estimated two percentage points of incremental, annualised capacity. Qatar Airways currently flies a mix of Boeing 777s and Airbus A380s on its routes to Australia. If it opted to upgauge these to A380s, which it can under its current traffic arrangements, it would immediately increase the number of seats offered by 27 per cent.¹¹¹

2.77 However, Mr Rob Wood, Executive General Manager Aviation, Sydney Airport, told the committee that Qatar Airways 'only fly A380s currently'.¹¹² Mr Geoff Culbert, Chief Executive Officer, Sydney Airport, added:

Pre-COVID they did fly double daily into Sydney, and from time to time they will toggle between, say, a 777 and an A380, but, at the moment, yes, it's one single A380.¹¹³

¹⁰⁹ Mr Fathi Atti, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, p. 6.

¹¹⁰ The Hon Anthony Albanese MP, Prime Minister, *House of Representatives Hansard*, 4 September, p. 54.

¹¹¹ Qantas, *Submission 147*, p. 7.

¹¹² Mr Wood, *Proof Committee Hansard*, 19 September 2023, p. 37.

¹¹³ Mr Culbert, *Proof Committee Hansard*, 19 September 2023, p. 37. See also Mr Christopher Rodwell, Chief Executive Officer, Chamber of Commerce and Industry Western Australia, *Proof Committee Hansard*, 22 September 2023, p. 57.

2.78 Mr Matt Raos, Senior Vice President Global Sales, Qatar Airways also commented on this matter:

We currently fly the A380, which is our largest passenger aircraft, every day to Sydney and Perth. With our current fleet, there is no more growth possible in those markets. We did note—I can't recall who was saying it—that in some of the media interest in this topic there were suggestions of, 'Why don't you just put A380s everywhere?' From an airline perspective, that's not necessarily the practical, optimal or ideal way of scheduling. What we see with the A380 is that, though it's very large for passengers, it's actually not an aircraft with the ideal mix between passenger and freight. In the belly of the aircraft is opportunity for bringing imports into Australia and the opportunity for Australian producers to export their product to global markets. A380 is not really the ideal solution for that; it has limited freight capacity.

The final point we would make is that the A380 is a large and four-engine aircraft. It has higher emissions per block hour than the small aircraft we would ideally put into those markets. So we see on balance the commercial angle from passenger perspective and from freight perspective as well as the concerns around decarbonisation in this industry, which would actually be better suited to increased frequency rather than changing everything to one particular aircraft type.¹¹⁴

2.79 Virgin Australia also commented:

An argument used to defend the decision is that QR should fly to ports outside of the Australia's largest four cities, such as Cairns, Darwin and Canberra (it does fly to Adelaide). This ignores the commercial and customer reality of supporting Australia's largest nodes of inbound and outbound passenger demand. Nonetheless, the argument is illuminating in that by calling for more capacity from Qatar into Australia, but just not on the four key ports, it reinforces the perception that the decision to reject QCAA's request was designed to protect the already dominant position held by the QF - EK partnership.¹¹⁵

2.80 In relation to using larger aircraft Virgin Australia submitted:

The argument that QR should 'upgauge' its aircraft flying to Australia to larger, older, less fuel efficient A380s: This is a somewhat spurious argument given QR already services Sydney and Perth with an A380, and a 8777 to Melbourne and Brisbane. Along with the more fuel-efficient two-engine B777's, QR has been investing heavily in a now 57-strong fleet of Airbus 350 (A350) aircraft, one of the most modern and fuel-efficient aircraft in global aviation. As its twin-engine long-haul fleet grows, QR can deliver a superior and more sustainable experience to the Australian aviation industry.¹¹⁶

2.81 Considering the reasoning provided by the minister, some inquiry participants discussed the notion of national interest and the grounds on which government

¹¹⁴ Mr Matt Raos, *Proof Committee Hansard*, 27 September 2023, p. 7.

¹¹⁵ Virgin Australia, *Submission 70*, pp. 4-5.

¹¹⁶ Virgin Australia, *Submission 70*, p. 5.

decisions are made. For example, when asked to disaggregate component parts of the national interest in this circumstance, Dr Webber replied:

With these things, typically, inbound tourism gets the dominant weight. That's because it has such a pervasive effect. It affects not just the tourism sector, but the tourism and hospitality sectors earn money, and that's spent and benefits other Australians as well, so it has a wide-reaching effect. So the inbound tourism effect tends to get significant weight. The factors that affect the welfare of Australian residents tend to get the most weight. My understanding is that the impact on Australian businesses tends to get much lower or lesser weight. But if I were working out the national interest, I'd be trying to quantify all of those impacts I mentioned previously.¹¹⁷

2.82 Dr Peter Forsyth considered the economic dimensions of the national interest, and suggested that a 'pragmatic approach would be to conduct a cost benefit analysis of the pros and cons of liberalisation in a particular case'. He listed some of the 'key costs and benefits':

- The benefits to Australian passengers from lower airfares;
- The possible reduction in profits for Australian airlines such as Qantas;
- The benefits from increased tourism receipts from inbound tourism;
- The costs or benefits of the impact on jobs, in both the airline industry and the tourism industry and
- The impact on greenhouse gas emissions from the airline industry and tourism.¹¹⁸

2.83 After discussing these factors in relation to the proposal to allow more flights for Qatar Airways, Dr Forsyth submitted there would be a clear economic gain in doing so:

On balance, while the gains from allowing Qatar more flights, as a result of benefits to Australians from lower fares and benefits from more tourism, the costs will mainly accrue to foreign airlines and their staffs. Australia will be paying less for its imports of airline services, which will lead to an increase in its National Income. From Australia's perspective, there will be a clear economic gain from additional flights by Qatar Airways.¹¹⁹

2.84 Dr Forsyth added that this does not mean liberalisation always supports the economic dimensions of the national interest, and observed that 'economic factors are not the only ones which need to be taken into account':

There is the 2020 event at Doha airport which is relevant, and there may be other factors which are yet to be revealed. The 2020 event is a serious one, but it may be possible to address this by diplomatic and legal means, to the

¹¹⁷ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, pp 8-9.

¹¹⁸ Dr Peter Forsyth, *Submission 18*, [pp. 2-3].

¹¹⁹ Dr Peter Forsyth, *Submission 18*, [p. 4].

satisfaction of those affected, clearing the way for the economic benefits from additional flights by Qatar to be reaped.¹²⁰

2.85 Qatar Airways addressed the various concerns expressed in relation to the national interest in its submission. The airline highlighted how its application if approved would have supported Australia's national interest, including outlining the support the airline had provided to Australians during COVID-19, the potential boost for Australian jobs as a result of the application and additional transport through regional airports if the decision had been approved.¹²¹

2.86 Ms Jayne Hrdlika, CEO, Virgin Australia indicated that the organisation 'naively assumed' the government would approve the extra flights and Virgin remains 'confused' over the government's decision. Ms Hrdlika explained:

...to this day, there is still no coherent logic for this decision when all of the data suggests that supporting the Qatar Airways rights expansion is strongly in the national interest. It is certainly in the interests of consumers, the tourism industry and exporters.¹²²

2.87 An issue Minister King states is 'context' for the government's decision were the events at Hamad International Airport in October 2020. Mr Michael Bradley, Partner, Marque Lawyers told the committee that his firm represents:

...five of the many female passengers on a Qatar flight in 2020 who were subjected to gross invasions of their bodily autonomy at gunpoint, including nonconsensual body searches that amounted to sexual assaults. Our clients have been unable to get any form of meaningful acknowledgement or accountability from Qatar and have been forced to seek redress through federal court proceedings against Qatar Airways and airport authorities, which my partner Damian Sturzaker is leading.¹²³

2.88 Mr Bradley informed the committee that his clients do not support allowing Qatar Airways to expand their operations:

Our clients have expressed their concerns both publicly and directly to Minister King about the failure of Qatar Airways to accept any responsibility for what they suffered and about the continuing risk to female passengers who choose to fly on that airline. It is our clients' opinion that the airline has not demonstrated that it meets common standards of respect for human rights that all Australians would naturally expect of a company allowed to operate within our borders. Therefore, our clients support the decision to

¹²⁰ Dr Peter Forsyth, *Submission 18*, [p. 4].

¹²¹ Qatar Airways, *Submission 71*, pp. 5-10.

¹²² Ms Jayne Hrdlicka, CEO, *Proof Committee Hansard*, 27 September 2023, p. 32.

¹²³ Mr Michael Bradley, *Proof Committee Hansard*, 19 September 2023, p. 16.

not allow Qatar to expand its operations here, although they and we have no insight into the reasons for that decision.¹²⁴

2.89 Mr Bradley confirmed that prior to his clients writing to the minister on 27 June 2023 making representations regarding the Qatar Airways request, the government had not made contact with his clients.¹²⁵ In a letter dated 10 July 2023 and sent on 17 July 2023, Minister King told Mr Bradley's clients that '[t]he Australian government is not considering additional bilateral air rights with Qatar.'¹²⁶ Nonetheless, ministers subsequently suggested that Qatar Airways could conduct additional flights under existing arrangements. On 29 August 2023, the Prime Minister, the Hon Anthony Albanese MP, said:

Qatar can fly in to Adelaide, as many planes as they like, as big as they like. They can fly in other planes, which are bigger planes, that bring in more people. There is nothing unusual about a nation state not having access to unlimited flights wherever they like to go, whenever they like to go. Australia has exactly the same situation where Australian airlines are restricted from where they fly into. The former government made a very similar decision. And the Minister McCormack exactly as Minister King has.¹²⁷

2.90 On 4 September 2023, the Prime Minister told the House of Representatives:

...Qatar Airways can add more seats into Australia today—right now. ... They are certainly welcome to do so, and they can fly as many flights as they like into Adelaide, into the Gold Coast, into Avalon, into Hobart and into Canberra...¹²⁸

2.91 On 7 September 2023, Minister King also stated:

Let me just say, Qatar could increase its flights into Australia today. It should be flying here into Canberra airport. The very reason we have four major airports and then we have regional airports, the very reason for that is we want to try and get international tourism into our regional markets. And Qatar could recommence flying back into this airport today. They could fly into Darwin. They could fly into Adelaide. They could fly into Cairns and they could fly into the Gold Coast and, as I said, into Darwin. They are

¹²⁴ Mr Michael Bradley, *Proof Committee Hansard*, 19 September 2023, p. 16.

¹²⁵ Mr Michael Bradey, Managing Partner, Marque Lawyers, *Proof Committee Hansard*, 19 September 2023, pp. 16-17.

¹²⁶ The minister's letter was published in Robyn Ironside, 'Letter at the centre of Catherine King's Qatar Airways' decision', *The Australian*, 7 September 2023, <https://www.theaustralian.com.au/business/aviation/letter-at-the-centre-of-catherine-kings-qatar-airways-decision/news-story/fcfce9877a8e27291df5ce4eba373bcf> (accessed 4 October 2023); Mr Wood, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 26.

¹²⁷ The Hon Anthony Albanese MP, Prime Minister, Transcript of doorstep – Adelaide, 29 August 2023, <https://www.pm.gov.au/media/doorstop-adelaide-2> (accessed 6 October 2023).

¹²⁸ The Hon Anthony Albanese MP, Prime Minister, *House of Representatives Hansard*, 4 September 2023, p. 54.

choosing not to do so. They could also on the flights where they're not flying the Airbus 380, increase passengers' seats into those major airports immediately, and we could encourage them to do so.¹²⁹

2.92 Mr Atti of Qatar Airways reported that to his knowledge, the Australian Government did not raise the October 2020 incident during negotiations on Qatar's request for increased air capacity. He added, '[i]t is not to our knowledge that it was raised even with our government'.¹³⁰

2.93 Ms Hrdlicka, CEO, Virgin Australia, stated that it was during their second conversation on 1 May 2023 that the minister first raised the incident at Doha airport with her:

In my 1 May conversation with Minister King, which was primarily to update her on industrial relations, the minister indicated there was some challenge regarding the Doha airport incident of 2020, which we then discussed.¹³¹

2.94 Inquiry participants highlighted a range of different factors that could be considered in decisions on air service agreements, including the following:

- Austrade confirmed that when providing input to negotiating mandates for Air Services Agreements, it:

...encourages a strong emphasis on the contribution the visitor economy makes to the Australian economy, particularly in regional Australia. This approach aims to ensure that enough capacity is negotiated to meet current and future demand from our key aviation markets as well as emerging markets, aligned with the Australian Government's diversification agenda.¹³²

- The Victorian Chamber of Commerce and Industry supported a 'strategic approach' to bilateral air service agreements, which 'entails coordinated involvement of stakeholders from airlines, airports, governments, industry and tourism bodies and trade agencies'.¹³³ It submitted that currently:

...stakeholders are engaged solely with the Government in a short period of time to suggest the air service destination and quantum for the next foreseeable period.

¹²⁹ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, Transcript, 'Press conference in Canberra to launch the Aviation Green Paper', 7 September 2023, <https://minister.infrastructure.gov.au/c-king/interview/press-conference-canberra-launch-aviation-green-paper> (accessed 6 October 2023).

¹³⁰ Mr Atti, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, p. 6.

¹³¹ Ms Carla Jayne Hrdlicka, Chief Executive Officer and Managing Director, Virgin Australia, *Proof Committee Hansard*, 27 September 2023, p. 33.

¹³² Austrade, *Submission 15*, [p. 2].

¹³³ Victorian Chamber of Commerce and Industry, *Submission 19*, [p. 1].

This process would benefit from a more strategic approach going forward, which would enable and incentivise stakeholders to take a more coordinated and proactive approach to attracting international carriers.¹³⁴

- Brisbane Airport submitted that air service agreements 'need to be considered as part of broader Commonwealth migration, education, tourism and foreign policies'.¹³⁵
- The ACT Government highlighted regional airports and submitted that bilateral agreements should:

...be structured to provide incentives for airlines to access relevant regional airports beyond the main international gateways. For example, through additional slots into major capital cities being contingent on flying into regional gateways, this would allow for increased competition and regional distribution.

Improving regional airports' access to international markets will benefit regional communities by growing trade, investment and export opportunities, improving access to labour markets, and supporting the tourism industry. It would also strengthen demand and growth opportunities for Australia's domestic aviation network.¹³⁶

- Broome International Airport discussed the potential benefits of greater international connectivity from the Kimberley region, including for trade and tourism; it submitted:

We appreciate that Bilateral Air Service Agreements and their associated rights allow for opportunities to expand trade between countries and that these rights should be carefully determined. As an airport based in a remote regional location, we believe there should be some consideration as to how these agreements can assist in creating opportunity for improved connectivity and economic development of remote Northern Australia.¹³⁷

2.95 Mr Dean Long of the Australian Travel Industry Association submitted:

What we would like to acknowledge is that the national interest for us is how we support Australian consumers and how we support local Australian businesses that not only employ Australians in retail shopfronts but also operate as home based networks. That's the national interest for us.¹³⁸

2.96 Qantas submitted that '[a]n assessment of the national interest informs the decision making of both governments considering changes to agreements' and:

¹³⁴ Victorian Chamber of Commerce and Industry, *Submission 19*, [p. 2].

¹³⁵ Brisbane Airport, *Submission 12*, p. 4.

¹³⁶ ACT Government, *Submission 6*, [p. 3].

¹³⁷ Broome International Airport, *Submission 16*, [pp. 2–4].

¹³⁸ Mr Long, Australian Travel Industry Association, *Proof Committee Hansard*, 19 September 2023, pp. 23–24.

National interest is a concept with broad application in state-to-state engagement and is necessarily fluid. Relevant considerations might include the 'beyond' rights on offer, the ability to code share, the adherence of the other country to international rules, freight rights, access to ground handling, airports and the ability to sell freely, rights of domestic domiciled airlines and their interests internationally.¹³⁹

2.97 Mr Christian Bennett, Chief Corporate Affairs and Sustainability, Virgin Australia put forward the view:

I think the broad sense is that national interest will obviously reflect consumer benefit, will reflect broader economic benefits to Australia and then may be moderated by any broader national security, or other, considerations that could temper the other two elements. So I don't think there's an agreed aviation terminology for it. It's more individual perception.¹⁴⁰

2.98 Qantas also noted that 'Australia is not alone in hesitating to grant applications by the QCAA over the past few years':

Most recently, Qatar Airways' CEO has complained about the Canadian Government's refusal to grant the airline additional traffic rights despite the fact it maintained services during the pandemic, saying: "*It is distressing to me that the Canadian authorities are not providing us with fair allocation of traffic rights that they have given to our neighbours.*"¹⁴¹

2.99 Qantas submitted that '[t]he suggestion that the Government's decision on the QCAA application may have been related to Qantas' support for the Voice and the Yes23 campaign has no basis in fact and ignores Qantas' longstanding commitment to indigenous reconciliation'.¹⁴²

Effects of the recent Qatar decision

2.100 The following sections examine evidence about the effect of the decision on:

- Australia's economy;
- airfares and competition;
- trade and freight; and
- tourism.

Economic effects

2.101 The Australian Chamber – Tourism submitted that although the Green Paper suggests a 'capacity ahead of demand' approach, it 'appears this has not been

¹³⁹ Qantas, *Submission 147*, p. 6.

¹⁴⁰ Mr Christian Bennett, Virgin Australia, *Proof Committee Hansard*, 27 September 2023, pp. 42-43.

¹⁴¹ Qantas, *Submission 147*, p. 7. Regarding the situation in other countries, also see Professor Merkert, private capacity, *Proof Committee Hansard*, 19 September 2023, p. 62.

¹⁴² Qantas, *Submission 147*, p. 7.

the case in the Qatar Airways decision, where demand outweighs capacity'.¹⁴³
The Chamber also said that it:

...understands that the cost of the Qatar decision may be between \$500 and \$788 million in foregone revenue for tourism and travel. Another estimate puts the cost of the decision at up to \$1 billion in lost income, when considering business travel and freight as well as tourism.¹⁴⁴

2.102 A cost estimate was also provided by Professor Rico Merkert from the University of Sydney, who said he undertook:

...some modelling to estimate the loss to the Australian economy. I initially included price, income, cross-price and competitor reaction elasticities. But then I simplified my approach, as a back-of-the-envelope calculation arrived at roughly the same figure of A\$1 billion per year.¹⁴⁵

2.103 Professor Merkert further submitted:

In terms of a conservative estimate related to the loss of tourism dollars, Qatar Airways, last year, on average, brought in 330 passengers per flight. If you multiply these 330 by 21 flights per week, assuming that not all of the 28 frequencies would be used immediately, and then multiply that by 52.2 weeks per year, you get to roughly 360,000 passengers per year that would have flown into Australia.¹⁴⁶

2.104 Dr Tony Webber, Airline Intelligence Research, provided further figures when asked what would have been the effects of agreeing to Qatar's request:

The favourable effects are that there would be a material improvement in inbound tourism, largely from Europe. That would be likely to be somewhere in the order of \$1 billion, if you include multiplier effects. There would be a material reduction in airfares. I think airfares would fall, probably not as much as many think but by somewhere between seven per cent and 10 per cent, based on the capacity that's added to that market.¹⁴⁷

2.105 Dr Webber clarified that the 'airfare reduction would benefit Australians travelling overseas as it would benefit Europeans travelling to Australia'. He also pointed to other effects, including a potential fall in yields of airlines that currently carry passengers between Australia and Europe.¹⁴⁸ Dr Webber also suggested that an increase in international flights may have small knock-on

¹⁴³ Citation omitted. Australian Chamber – Tourism, *Submission 10*, [p. 2].

¹⁴⁴ Citations omitted. Australian Chamber – Tourism, *Submission 10*, [p. 4].

¹⁴⁵ Professor Merket, *Proof Committee Hansard*, 19 September 2023, p. 58.

¹⁴⁶ Professor Merket, *Proof Committee Hansard*, 19 September 2023, p. 59.

¹⁴⁷ Dr Webber, Airline Intelligence and Research, *Proof Committee Hansard*, 19 September 2023, p. 8.

¹⁴⁸ Dr Webber, Airline Intelligence and Research, *Proof Committee Hansard*, 19 September 2023, p. 8.

effects on domestic competitiveness as about eight to ten per cent of international passengers would fly on a domestic leg.¹⁴⁹

2.106 The Chief Executive Officer of Flight Centre, Mr Graham Turner, told the committee:

It is pretty obvious, we believe, it is in the national interest to approve those 21 extra flights, particularly, as was mentioned before, given Virgin's code share. Virgin don't fly internationally much, so they would get quite a bit of benefit out of the domestic on-travel, which would help their people employ more people in that. There's no doubt in my mind that economically it's in the national interest to approve those.¹⁵⁰

2.107 Regarding a potential review of the decision, the Chief Executive Officer of Sydney Airport, Mr Geoff Culbert, proposed that 'a reasonable position would be that you review the use of the bilaterals running up to Christmas'. Mr Culbert suggested that '[i]f we haven't seen any additional capacity come on through the UAE then it would be appropriate to determine whether there's an opportunity for Qatar to fill that gap'.¹⁵¹

2.108 Dr Forsyth proposed that rather than a review of international aviation policy, 'what is needed is a rethink of what the national interest in aviation really is'. He suggested it 'would be worthwhile starting with a rethink of the Qatar decision'.¹⁵²

Effect on airfares and competition

2.109 The committee understands that flights to the Middle East are a very important part of the aviation network connecting Australia to Europe.¹⁵³

2.110 In the context of cost of living pressures,¹⁵⁴ a range of witnesses emphasised that airfares, particularly on international routes, have increased. For instance, the Australian Travel Industry Association said data from industry ticketing systems show international fares from Sydney airport in 2023 are 'up to 99% higher than the same period before the pandemic'. It submitted:

Some of the highest price increases across classes include:

- Sydney to Hong Kong - Economy - \$853 one-way (**+81 % increase**)
- Sydney to Los Angeles - Economy - \$1254 one-way (**+67% increase**)
- Sydney to Dubai - Economy - \$853 one way (**+64% increase**)
- Sydney to Dubai - Premium Economy - \$2224 one-way (**+99% increase**)

¹⁴⁹ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p. 13.

¹⁵⁰ Mr Graham Turner, *Proof Committee Hansard*, 19 September 2023, p. 25.

¹⁵¹ Mr Geoff Culbert, *Proof Committee Hansard*, 19 September 2023, p. 37.

¹⁵² Dr Peter Forsyth, *Submission 18*, [p. 7].

¹⁵³ See, for example, Mr Turner, Flight Centre, *Proof Committee Hansard*, 19 September 2023, p. 25.

¹⁵⁴ Mr Christopher Rodwell, *Proof Committee Hansard*, 22 September 2023, p. 58.

- Sydney to Doha - Premium Economy - \$959 one-way (**+72% increase**)
- Sydney to Singapore - Premium Economy - \$1057 one-way (**+59% increase**)
- Sydney to Doha - Business/First - \$3165 one-way (**+68% increase**)
- Sydney to Hong Kong - Business/First - \$3692 one-way (**+56% increase**)¹⁵⁵

2.111 Brisbane Airport Corporation also noted that airfares have increased since Covid:

We see airfare levels particularly to Europe, which is the subject of a lot of discussion in this context, are approximately 75 per cent above pre-COVID levels, which is very significant. For the majority of normal people who are price sensitive and care about the cost of travel to Europe, that's a significant block to tourism and a significant block to the capacity that's then available in the belly of those passenger planes for exports of Queensland produce.¹⁵⁶

2.112 The Australian Travel Industry Association acknowledged that there are multiple factors contributing to price rises, but submitted that 'the current bilateral policy settings are having the impact of limiting new capacity'.¹⁵⁷ When asked about the cause of price rises, one factor highlighted by the Australian Travel Industry Association's CEO Mr Dean Long was that there are currently '11 per cent less airlines flying to Australia'.¹⁵⁸ The CEO of Flight Centre, Mr Turner, also observed that 'airlines certainly are taking advantage of the fact that demand is exceeding supply'. Mr Turner reported that there is variation between routes and that 'it's mainly on that Middle Eastern route and to Europe and the UK that the airfares are relatively quite expensive'.¹⁵⁹

2.113 Mr Turner offered his view that 'airfares are going to stay high for at least the rest of this year, and probably well into next year, significantly due to the demand and the capacity not being back on certain routes', adding that 'these high airfares won't go away unless there's more capacity'.¹⁶⁰ Mr Turner also reported that the 'travel industry would love this decision to be reversed',¹⁶¹ and gave an example of how '[m]ore capacity means lower prices':

You may have noticed that Qatar now fly three times a week into New Zealand. When those three flights only were announced, the prices on a like-for-like, month-to-month basis in the same month – which was September –

¹⁵⁵ Emphasis in original. Australian Travel Industry Association, *Submission 1*, p. 10. Also see Mr Long, Australian Travel Industry Association, *Proof Committee Hansard*, 19 September 2023, p. 24.

¹⁵⁶ Mr Ryan Both, Executive General Manager, Brisbane Airport Corporation, *Proof Committee Hansard*, 26 September 2023, p. 32.

¹⁵⁷ Australian Travel Industry Association, *Submission 1*, p. 12.

¹⁵⁸ Mr Long, *Proof Committee Hansard*, 19 September 2023, p. 24.

¹⁵⁹ Mr Graham Turner, Flight Centre Travel Group, *Proof Committee Hansard*, 19 September 2023, p. 24.

¹⁶⁰ Mr Graham Turner, *Proof Committee Hansard*, 19 September 2023, p. 33.

¹⁶¹ Mr Graham Turner, *Proof Committee Hansard*, 19 September 2023, p. 28.

compared to September last year were down 10 per cent. We notice December is down 14 per cent. It's pretty clear evidence, we think, that more capacity will lower prices.¹⁶²

2.114 Regarding airfare increases, the Australian Airports Association submitted:

A key driver of high international airfares is an undersupply of seats on international routes serving Australia. This is in part due to fewer airlines flying in and out of Australia and less capacity from airlines servicing Australia compared to pre-pandemic levels.¹⁶³

2.115 Mr Christopher Rodwell, Chief Executive Officer of the Chamber of Commerce and Industry Western Australia, spoke about the 'Diversify WA plan' and said:

What underpins that is a flourishing aviation sector, and we're a long way from flourishing. We don't have enough flights, and the ones we do have cost too much. The fundamental antidote to this condition is more competition, not just in the international market but in our domestic market, whether that's interstate or intrastate. We should be concerned about how WA's regions badly need more competition and better prices when it comes to aviation.¹⁶⁴

2.116 Sydney Airport reported airlines flying to and from the United Arab Emirates are 'only operating 84 of the 168 flights they are permitted, while Qatar Airways is utilising all of their permitted 28 flights and is operating at capacity (plus an extra 7 flying to Adelaide via Melbourne, which is permitted under the [bilateral air service agreement]).' It said that '[w]ith 50% of weekly permitted flights from the UAE not being utilised, while Qatar is prevented from increasing their capacity, consumers are paying the price with less choice and ultimately higher airfares.'¹⁶⁵

2.117 Queensland Airports Limited suggested that more air services tend to result in lower airfares:

Typically, the more airlines that service a region or the higher the frequency of services, the lower airfares tend to become, driven by competition and economies of scale. In essence, the more aircraft seats, the lower the airfares, offering considerable economic and social benefits to the regions they support.¹⁶⁶

¹⁶² Mr Graham Turner, *Proof Committee Hansard*, 19 September 2023, p. 23.

¹⁶³ Australian Airports Association, *Submission 7*, p. 2.

¹⁶⁴ Mr Christopher Rodwell, Chief Executive Officer, Chamber of Commerce and Industry Western Australia, *Proof Committee Hansard*, 22 September 2023, p. 57.

¹⁶⁵ Sydney Airport, *Submission 2*, p. 2. Also see Mr Geoff Culbert, *Proof Committee Hansard*, 19 September 2023, p. 36.

¹⁶⁶ Queensland Airports Limited, *Submission 11*, [p. 2].

2.118 The Chair of the ACCC, Ms Gina Cass-Gottlieb, submitted that competition issues should be 'one key area considered' with regard to the national interest.¹⁶⁷ When asked whether additional flights by Qatar Airways into Australia have made flights cheaper for Australians travelling to Europe, Ms Cass-Gottlieb said '[i]n the usual course, more competition produces downward pressure on price.'¹⁶⁸

2.119 The Australian Chamber – Tourism referred to price increases for fares between Australia and Europe and suggested allowing more flights by Qatar Airways would reduce these fares:

Carriers including Qantas acknowledge they will not return to full international capacity until at least March 2024. It is difficult to foresee an easing in prices in the immediate future without increased competition. Industry sources have suggested the additional flights provided by Qatar Airways could have reduced the cost of flights by up to 40 per cent.¹⁶⁹

2.120 In discussing high airfares, Brisbane Airport submitted that it 'supported Qatar's application for an expansion of its rights under the relevant [air services agreement]':

The current aviation environment has been characterised by a very strong recovery in demand. The supply side constraints have unfortunately hampered the markets' ability to meet this demand. This has resulted in stubbornly high air fares and lack of access for passengers from key source and trade markets. A search of publicly available websites confirms that prices for international travel to and from BNE are around 75% higher than pre-covid. The solution to these problems is additional services from key carriers.¹⁷⁰

2.121 Virgin Australia also highlighted that greater competition will result in lower airfares for customers:

By allowing QR [Qatar Airways] to expand its flights, the Federal Government will create more competition between carriers. Importantly, this competition would occur outside of the Qantas - Emirates partnership which, this month according to media reports, acknowledged that even with the introduction of an additional A380 EK service would have limited impact on airfares. To reiterate, lower airfares for Australian consumers and inbound tourists will accelerate by stimulating greater competition between carrier partnerships, not from within an already dominant partnership.¹⁷¹

¹⁶⁷ Ms Gina Cass-Gottlieb, Chair, ACCC, *Proof Committee Hansard*, 22 September 2023, p. 39.

¹⁶⁸ Ms Gina Cass-Gottlieb, Chair, ACCC, *Proof Committee Hansard*, 22 September 2023, p. 44.

¹⁶⁹ Citations omitted. Australian Chamber – Tourism, *Submission 10*, [p. 3].

¹⁷⁰ Brisbane Airport, *Submission 12*, p. 3.

¹⁷¹ Virgin Australia, *Submission 70*, p. 3.

2.122 Virgin Australia detailed the effect on its ability to compete:

As a code-share partner of QR [Qatar Airways], VA [Virgin Australia] is impacted by the Federal Government's decision not to commence negotiations with Qatar. This goes beyond a surface-level revenue potential associated with additional flights - the direct financial extent of which is in the \$5mn - \$10mn range per annum. Far more significant is the negative consequences of constraining growth which undermines VA's ability to compete with the Qantas Group.¹⁷²

2.123 Professor Allan Fels AO emphasised that the effect of the government decision in relation to Qatar Airways 'is certainly very protective of Qantas', adding:

When we talk about protection, the most frequent scenario is that a business is in trouble, failing and making low profits and the government comes in to save it. You can argue for and against that. But, when a business is making \$2.5 billion in profit, protecting it is a very different kettle of fish.¹⁷³

2.124 In contrast to the majority of witnesses before the inquiry, Qantas did not support changes to the existing bilateral air service agreement settings with Qatar. Its CEO, Ms Vanessa Hudson, emphasised the importance of 'enabling the international market to recover capacity from the impacts of COVID' prior to altering the market settings through the introduction of additional flights by Qatar Airways.¹⁷⁴

Effect on trade and freight

2.125 As Austrade confirmed, '[a]viation access for passenger movements also contributes to freight movement of Australian goods.'¹⁷⁵ Several inquiry participants therefore highlighted how restrictions under Australia's bilateral air service agreement have affected trade, particularly producers in Western Australia.

2.126 The National Farmers Federation drew attention to the value of Australian exports and submitted 'reliable, efficient and competitive freight to key markets is essential'.¹⁷⁶ Moreover, 'air freight is particularly important to perishable agricultural industries', with the Federation submitting:

The Australian Government and the agriculture industry have spent significant time and effort building and expanding new markets for producers to sell product. It is imperative that the government support

¹⁷² Virgin Australia, *Submission 70*, p. 3.

¹⁷³ Professor Allan Fels AO, *Proof Committee Hansard*, 27 September 2023 p. 28.

¹⁷⁴ Ms Vanessa Hudson, *Proof Committee Hansard*, 27 September 2023, p. 68.

¹⁷⁵ Austrade, *Submission 15*, [p. 2].

¹⁷⁶ National Farmers Federation, *Submission 65*, [p. 1].

effective access to these markets to underpin diverse, premium markets for Australian producers.¹⁷⁷

2.127 WAFarmers highlighted the importance of passenger flights from Perth to the Middle East and North Africa in order to move freight, particularly chilled lamb and beef. However, exports on passenger flights reduced during the COVID-19 pandemic, and 'the failure to return to pre-COVID levels has impacted our high-end export sectors'. WAFarmers advanced that 'any opportunity to increase capacity should be embraced by the Federal Government'.¹⁷⁸

2.128 At a hearing, Mr John Hassell, President WAFarmers emphasised the reliance on reliable freight opportunities in WA:

WA is an export orientated state and relies to a much higher extent on reliable freight opportunities than the rest of Australia. In 2022-23, Australia exported \$83 billion worth of agricultural products, over 70 per cent of our entire production. WAFarmers supports additional freight services because the increased competition and increased opportunities will bring the price of freight down and increase demand. Currently, the cost of freighting a lamb is about a dollar a kilo cheaper from Melbourne, even though Perth is four hours of flying time closer to the markets. This would also have the effect of greater competition for Australian products in the end point markets, as well as supporting profitability and supporting livelihoods of farmers, farm workers and employees along the supply chain.¹⁷⁹

2.129 WAFarmers also explained that 'Qatar is the third largest market in the Middle East and North Africa for Australian chilled beef and boxed sheep meat, taking 8 per cent of beef and 13 per cent of sheep, at a value of \$135m in 2021-22'.¹⁸⁰ It submitted:

Today, total capacity to the Middle East and North African countries (MENA) for sheep meat exports is down from about 160 tonnes per day to about 66 tonnes as at April 2023.

This means there remains extensive untapped market potential of 100 tonnes per day, which is equivalent to 3000 lambs per day or around a million lambs a year.¹⁸¹

2.130 Mr Hassell told the committee:

Rumour has it that WA lost a big Middle East order because of the limited air space capacity out of Perth. Reliable airfreight is important, particularly to perishable goods, which have short windows for freshness. This has been shown to be an issue in Perth, where the freight is regularly bumped in favour of other goods due to space and price. This culminates in unhappy

¹⁷⁷ National Farmers Federation, *Submission 65*, [p. 1].

¹⁷⁸ WAFarmers, *Submission 4*, [pp. 1–2].

¹⁷⁹ Mr John Hassell, *Proof Committee Hansard*, 22 September 2023, p. 20.

¹⁸⁰ WAFarmers, *Submission 4*, [p. 2].

¹⁸¹ WAFarmers, *Submission 4*, [p. 3].

customers who sometimes refuse to pay due to delays. Costs are also borne by the abattoirs, who have no kill room because the freezer space has not been cleared, leading to wages being paid for vets and kill staff with no ability to process, so they're sitting around doing nothing.¹⁸²

2.131 Mr Hassell suggested that the 'airline decision is definitely anticompetitive and needs to be addressed', adding:

It's certainly not only about the tourism aspects but also the all-important export dollar opportunity and our farming communities. It feels like there's an anti Western Australia sentiment in not allowing this to happen, and we call on it to be reviewed'.¹⁸³

2.132 Mr Rodwell of the Chamber of Commerce and Industry Western Australia submitted that his organisation does not understand the reason for the decision to refuse Qatar's request and considers the decision is not in Western Australia's interests:

WA needs the federal government to understand the investment required in aviation to help our services sector recover and to regain—and, ultimately, capture more—market share from both domestic and international competitors. That is why we're disappointed that Qatar Airways had its application rejected to bring an extra daily flight into Perth, due to the positive impact that open air travel has on the WA economy. We simply don't understand the reasons given around our national interest. We're convinced that the decision is not in Western Australia's interest.¹⁸⁴

2.133 Mr Rodwell further commented:

The more flights coming into our state, the more export and import opportunities open up and the more downward pressure there will be on freight pressures.¹⁸⁵

2.134 The Australian Meat Industry Council reported that the Australian meat supply chain accounted for 'over \$13.5 billion in value-add and \$67.7 billion in industry turnover in 2020-21'.¹⁸⁶ Despite geographic and other advantages Australia has in this industry, 'airfreight continues to present challenges', many of which 'relate to capacity constraints that remain following COVID-19 travel restrictions and reduced flight numbers'. It submitted:

In addressing these residual challenges, it is crucial that government ensure that it is facilitating and encouraging access for additional airlines and flight capacity to our nation. Action in this area will result in greater competition

¹⁸² Mr John Hassell, *Proof Committee Hansard*, 22 September 2023, p. 20.

¹⁸³ Mr John Hassell, *Proof Committee Hansard*, 22 September 2023, p. 20.

¹⁸⁴ Mr Rodwell, Chamber of Commerce and Industry Western Australia, *Proof Committee Hansard*, 22 September 2023, p. 57.

¹⁸⁵ Mr Rodwell, Chamber of Commerce and Industry Western Australia, *Proof Committee Hansard*, 22 September 2023, p. 57.

¹⁸⁶ Citation omitted. Australian Meat Industry Council, *Submission 9*, [p. 1].

and greater capacity providing more options to exporters of time-sensitive chilled meat at rates that facilitate access to critical diversification markets.¹⁸⁷

2.135 The Australian Meat Industry Council also emphasised that:

...the Australian red meat industry's highest value export products, chilled meat products, are transported overseas exclusively via air freight as sea freight logistics options do not provide fast enough travel times for chilled product with time-sensitive shelf life. Meaning, access to additional air freight capacity would assist industry in delivering its highest value produce to our international markets.¹⁸⁸

2.136 Ms Bonnie Skinner, CEO, Sheep Producers Australia also stressed the importance of flight capacity to be able to deliver sheepmeat products to the overseas market:

We're producing fresh, high-quality meat every week. We need the ability to be able to move that in a really time-sensitive manner and get it to exactly where it needs to go. We don't have the luxury of waiting, because of the perishability of the carcass product. It's not a vacuum packed process. It can't sit around and wait. If it does sit around and wait we end up looking at a massive food safety issue, so there's a high reputational risk in getting carcass airfreight wrong.¹⁸⁹

2.137 Mrs Belinda Murray, Board Director, Sheep Producers Australia emphasised that, '[n]ot being able to move freight through and the uncertainty that's come from not being able to move product is having a huge impact on producers, not just in terms of their business planning, but also it's pushing quite a lot of animal welfare risk back on farm and making it very complicated in businesses which are, by and large, small family businesses and don't have a lot of financial or general capacity to take on a lot of risk'.¹⁹⁰

2.138 Mr Hassell also spoke about the effects on farmers leading to a possible animal welfare crisis:

In the past, the supply chain has been efficient, and we've been able to move sheep off farms. At the moment, there are lambs that are being kept on farms to the point where they've grown past being lambs and they are now hoggets, so they're 40 per cent less in value than what they have been. There are farmers who are in dry growing conditions—I explained this earlier. They're keeping lambs on farm and having to feed them on grain, which is far more expensive than feeding them on paddock feed. So then they've got another year's worth of supply coming on without having been able to turn

¹⁸⁷ Australian Meat Industry Council, *Submission 9*, [p. 1].

¹⁸⁸ Australian Meat Industry Council, *Submission 9*, [p. 2].

¹⁸⁹ Ms Bonnie Skinner, *Proof Committee Hansard*, 22 September 2023, p. 23.

¹⁹⁰ Mrs Belinda Murray, *Proof Committee Hansard*, 22 September 2023, p. 21.

off the previous year's lambs. For us, it's a looming animal welfare crisis, and that mobilises you a fair bit.¹⁹¹

2.139 Mr Tony Seabrook, President, Pastoralists and Graziers Association of Western Australia, spoke about the challenges for freight from WA:

Extra cargo space...is vastly more expensive in the west, out of Perth, than it is over in the east. A processor I spoke to this morning said he could get another 5,000 lambs out of Western Australia, chilled, on an aeroplane, if the freight was there. He's paying \$8 a head more out of Perth to the gulf than for stock out of the eastern states, so I think we've got a pretty good case here. There's more to say, but I think most of what I'm trying to say is, for heaven's sake, let's look at it from the point of view of the people being affected here rather those that have a peripheral interest.¹⁹²

2.140 In relation to the government decision, Mr Seabrook called on the minister to reconsider the decision because:

...you're hurting us.' The sheep trade in Western Australia is really fragile at the moment. There are a lot of producers who've had enough. This is the final straw. They've had enough. There are ram sales where values will be way down. Producers are not prepared to mate. One said to me yesterday that he probably wasn't going to mate this year. I've never heard of that before. The tone deafness of this current federal government is beyond belief.¹⁹³

2.141 While acknowledging that there are complex issues at play and not just the recent government decision, Mrs Murray submitted:

This is a very complex space. For an industry largely of small-business owners it is very challenging to operate within that complexity, especially at the moment. The complexity has increased hugely post-COVID. It's really disheartening when there are options such as this one, which we see could help us out in a very difficult position right now, and that difficulty is not being acknowledged.¹⁹⁴

Effect on tourism

2.142 Evidence indicated that the tourism sector is still in recovery after the effects of COVID-19, particularly international capacity.¹⁹⁵ Mr Tony Edmondstone, CEO, Airport Development Group, highlighted that as Australia is remote from the rest of the world, '[i]t's a high cost-to-serve market for international airlines to

¹⁹¹ Mr John Hassell, *Proof Committee Hansard*, 22 September 2023, p. 29.

¹⁹² Mr Tony Seabrook, *Proof Committee Hansard*, 22 September 2023, p. 21.

¹⁹³ Mr Tony Seabrook, *Proof Committee Hansard*, 22 September 2023, p. 23.

¹⁹⁴ Mrs Belinda Murray, *Proof Committee Hansard*, 22 September 2023, p. 21.

¹⁹⁵ Mr Brenton Cox, Managing Director, Adelaide Airport, *Proof Committee Hansard*, 22 September 2023, p. 12; Mr Graham Turner, CEO, Flight Centre Travel Group Ltd, *Proof Committee Hansard*, 19 September 2023, pp. 24, 26; Mr Christophere Rodwell, CEO, Chamber of Commerce and Industry Western Australia, *Proof Committee Hansard*, 22 September 2023, pp. 57, 58.

fly those sorts of distances; therefore, the more open we are as a country to enabling foreign carriers to connect to Australia the more significant the flow-on effects for tourism and then the economy as a whole'.¹⁹⁶

2.143 Accommodation Australia highlighted the value of the accommodation sector to Australia's economy, submitting that '[a]ccording to the ABS Tourism Satellite accounts, for pre-COVID 2018-19 the accommodation sector gross value add was \$8.58 billion, and direct value-add to tourism of \$6.2 billion.'¹⁹⁷ In discussing the importance of aviation access, Accommodation Australia submitted that '[a]dditional airline access not only provides the competition that leads to cheaper airfares for tourists, but it also brings more tourists.'¹⁹⁸

2.144 The Australian Chamber – Tourism provided figures about the value of the tourism industry more generally, submitting that prior to the COVID-19 pandemic:

Domestic and international tourism and travel spend totalled \$166 billion and it was the fourth largest export sector. There was a direct benefit to the regions, with 44 cents of every tourism dollar spent in regional destinations, and the industry supported over one million jobs, directly or indirectly.¹⁹⁹

2.145 The Chamber submitted that returning and visitor numbers remain below pre-covid levels, and also stated:

By denying Qatar Airways' application, the Government has restricted the number of tourists who can visit Australia and, effectively, inflated the cost of airfares. This is a significant deterrent for tourists to travel to Australia.²⁰⁰

2.146 Dr Peter Forsyth clarified that the benefits of inbound tourism are often measured in terms of extra spending by tourists, but 'it needs to be taken into account that this is a gross measure of benefit, not a net benefit measure'. He explained that 'inbound tourists will spend money, but Australian resources will be needed to produce the goods and services they use'. He suggested that net benefits from tourism are 'more likely to be of the order of 5 to 10% of total spending' and that gross figures should be 'treated with caution'.²⁰¹ Nonetheless, Dr Forsyth said that 'the gains from allowing Qatar more flights' include 'benefits from more tourism'.²⁰²

¹⁹⁶ Mr Tony Edmondstone, *Proof Committee Hansard*, 22 September 2023, p. 15.

¹⁹⁷ Accommodation Australia, *Submission 5*, p. 3.

¹⁹⁸ Accommodation Australia, *Submission 5*, p. 4.

¹⁹⁹ Citations omitted. Australian Chamber – Tourism, *Submission 10*, [p. 3].

²⁰⁰ Australian Chamber – Tourism, *Submission 10*, [pp. 2, 3].

²⁰¹ Dr Peter Forsyth, *Submission 18*, [p. 3].

²⁰² Dr Peter Forsyth, *Submission 18*, [p. 4].

2.147 Professor Rico Merkert, Professor of Transport and Supply Chain Management and Deputy Director, Institute of Transport and Logistics Studies, University of Sydney, offered the following analysis in terms of lost tourism dollars as a result of the decision:

In terms of a conservative estimate related to the loss of tourism dollars, Qatar Airways, last year, on average, brought in 330 passengers per flight. If you multiply these 330 by 21 flights per week, assuming that not all of the 28 frequencies would be used immediately, and then multiply that by 52.2 weeks per year, you get to roughly 360,000 passengers per year that would have flown into Australian. If you assume that 50 per cent of those would have been inbound tourists, it gets you to 180,000 passengers, with most of them coming from Europe via Doha. European tourists spend, on average, up to \$3,600 while here. I've conservatively assumed \$3,500 for that. If you assume that they can stay here for up to a month—this number could actually go higher—then you get to a number of around \$632 million.²⁰³

2.148 Professor Merkert added:

Qatar is currently operating A380s on the Doha-Sydney route and B777-300ERs on the Doha-Melbourne sector. Those aircraft have a capacity of 570 to 360 seats. If you assume that the average would be 439 seats instead of the previously assumed 330 seats, the above calculations would result in \$841 million. Again, that is assuming 50 per cent of the passengers are tourists, mainly from Europe, but also from other parts of the world. If you increase that amount to 70 or 80 per cent, you would get much higher estimates for the loss in tourism income. But one could also argue that the load factors would not always be 100 per cent on each and every flight, so let's keep the estimate roughly at \$800 million for tourism losses only. If one then adds additional loss because of the lack of business travel, which I estimate to be around \$100 million, and the lack of visiting friends and family, connecting Australians with the world and with their families in Europe and the Middle East—which, to me, matters more than money—and freight, which is easily another \$100 million, the figure could become A\$1 billion relatively quickly.²⁰⁴

2.149 In summary, Professor Merkert submitted:

As noted, Qatar has asked for 28 flights, which would increase the figure stated above to more than A\$1 billion in lost tourism income alone. Again, this discussion is focused on the Europe to Australia sector, a sector where having a more open approach to carriers coming in would, in my view, be helpful to the Australian economy, including Australians who want to reconnect with that part of the world at affordable airfares.²⁰⁵

2.150 Mr Matt Raos, Vice President Global Sales, Qatar Airways stated:

²⁰³ Professor Rico Merkert, *Proof Committee Hansard*, 19 September 2023, p. 59.

²⁰⁴ Professor Rico Merkert, *Proof Committee Hansard*, 19 September 2023, p. 59.

²⁰⁵ Professor Rico Merkert, *Proof Committee Hansard*, 19 September 2023, p. 59.

We believe that, if our application for additional Qatar Airways flights to Australia is approved, it would create an additional \$3 billion of economic benefits to Australia over five years.²⁰⁶

2.151 Further analysis about the effects on tourism was provided by Dr Tony Webber, Managing Director, Airline Intelligence and Research Pty Ltd. As well as referring to 'a material improvement in inbound tourism, largely from Europe' which would likely be 'somewhere in the order of \$1 billion, if you include multiplier effects', Dr Webber also said:

The other impact that you don't really hear about that often is the outbound tourism effect—not only will added capacity to that market bring more Europeans to Australia; it will mean that more Australians will travel to Europe.²⁰⁷

2.152 Dr Webber told the committee about a net tourism deficit:

We know quite recently that there are more Aussies travelling to Europe than Europeans coming here. Economists call that net tourism deficit. That means that, because there are more tourist Aussies going overseas than Europeans coming here, that particular tourism geography is in deficit. One of the more interesting parts of that deficit is that what Aussies spend when they travel to Europe is about double what Europeans spend when they travel to Australia. So not only is there what I call the volume effect, where there are more Aussies going overseas than Europeans coming here; there's also a price effect, where they're spending much more overseas than Europeans are spending here.²⁰⁸

2.153 In relation to the impact of the decision, Qantas noted that:

In the context of the QCAA application, it is worth noting that the vast majority of outgoing Australian travellers only use Qatar as a transit hub, with passengers travelling solely between Australia and Qatar averaging 245 per week before the pandemic. The Australia-Europe market is extremely well served via hubs other than the Middle East, including Singapore, Hong Kong, Bangkok, Kuala Lumpur, Guangzhou, Shanghai and Beijing. Of these, Singapore and China have Open Skies arrangements with Australia, and the others have liberal capacity arrangements in place. There are no restrictions on dedicated international air cargo services between Qatar and Australia.

In terms of inbound tourism, Qatar Airways carries a disproportionately high number of outbound Australian-based passengers. On that basis, suggestions that granting the QCAA application would have materially advanced the Australian tourism industry's recovery are overstated.²⁰⁹

²⁰⁶ Mr Matt Raos, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, p. 1.

²⁰⁷ Dr Webber, *Proof Committee Hansard*, 19 September 2023, p. 8.

²⁰⁸ Dr Webber, *Proof Committee Hansard*, 19 September 2023, pp. 8–9.

²⁰⁹ Qantas, *Submission 147*, p. 6.

Transparency in negotiations and decisions about air service agreements

2.154 Several inquiry participants supported greater transparency in government decision making about bilateral air service agreements. For example, Dr Webber agreed that it would be useful for the government to provide public reasons when it rejects a request under a bilateral agreement. He said:

You'd just set out these component parts, which I set out before, and try to quantify them and say: 'This is how we've done it. These are the quanta, and this is how we made the decision.' I think it would be very useful.²¹⁰

2.155 The Victorian Chamber of Commerce and Industry submitted it is 'crucial that specific airline decisions are made with transparency, and ensure that any untapped capacity in Australia's aviation sector is realised'.²¹¹

2.156 Accommodation Australia advanced that the 'Bilateral Agreement system needs to be more transparent'. Accommodation Australia submitted that it:

...recognises that some decisions will be in part or totally based on decisions that for security or foreign diplomacy reasons are not in the public domain. In these cases, the inability for the government to comment needs to be clearly stated, and not delivered through a range of confusing mixed messages as to reasons why decisions were made. Whenever possible, decisions should be fully explained, and subject to appeal.²¹²

2.157 The Australian Chamber – Tourism discussed the recent Qatar Airways decision and observed:

...the Minister for Trade and Tourism has informed the Senate that he received no advice, briefings or submissions from his Department regarding the Qatar Airways application. Given this admission, it is difficult to understand how the recovery of Australian tourism and travel was adequately considered when the decision was being considered and ultimately made.²¹³

2.158 The Chamber submitted that that bilateral air service agreements 'should be undertaken in a clear and transparent process, with a clear understanding of the guiding principles, as well as consultation and timeline for the agreements'.²¹⁴ It also said that '[w]ithout knowledge of the reason for declining the application, it is difficult for a stakeholder to provide the relevant information for consideration and appeal the outcome as needed'.²¹⁵

²¹⁰ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p14.

²¹¹ Victorian Chamber of Commerce and Industry, *Submission 19*, [p. 3].

²¹² Accommodation Australia, *Submission 5*, p. 5.

²¹³ Citations omitted. Australian Chamber – Tourism, *Submission 10*, [p. 5].

²¹⁴ Australian Chamber – Tourism, *Submission 10*, [p. 5].

²¹⁵ Australian Chamber – Tourism, *Submission 10*, [p. 6].

2.159 A series of recommendations on these matters were presented by the Australian Travel Industry Association, including in relation to clearly defining 'factors pertaining to a consideration of the national interest', assessment of 'the consumer benefit of each bilateral application' by the ACCC, and that key industry stakeholders 'be provided equal opportunity to review each bilateral request and make recommendations'.²¹⁶

2.160 With respect to the process for considering changes to air service agreements, the Productivity Commission made a specific proposal; that:

...decisions and outcomes could be improved with greater use of transparent cost-benefit analysis, which includes a clear statement from the Australian Government about how it assesses the aggregate national interest and how any trade-offs are made when balancing the interests of different groups.²¹⁷

2.161 In explaining this position, the Productivity Commission described various considerations relevant to the national interest:

Assessing the national interest involves weighing up a range of potentially competing costs and benefits for Australian airlines, tourism operators, air freight users, travellers and the economy more broadly. The ultimate objective of this process should be to enhance the welfare of the Australian community as a whole rather than to protect or promote any particular group, industry or commercial interests.²¹⁸

2.162 Regarding the proposed use of cost-benefit analysis:

While the results of cost-benefit analysis may not be the Government's only consideration when determining whether to grant access to airlines under bilateral air services agreements, it is a vitally important input into the policymaking process and a powerful decision-making tool, particularly when it sets out unintended consequences and conducts sensitivity analysis.²¹⁹

2.163 The Productivity Commission emphasised that '[i]mportantly, the full assessment of the costs and benefits of the negotiated outcome should be publicly released as soon as practicable'.²²⁰

2.164 DITRDCA spoke about the FOI process and exemptions, including 'the detriment to the party providing confidential information to the department. It reads:

²¹⁶ Australian Travel Industry Association, *Submission 1*, p. 2

²¹⁷ Productivity Commission, *Submission 8*, p. 3.

²¹⁸ Productivity Commission, *Submission 8*, p. 5.

²¹⁹ Productivity Commission, *Submission 8*, p. 5.

²²⁰ Productivity Commission, *Submission 8*, p. 5.

...financial loss...exposure to ridicule or public criticism to the affected third party.²²¹

2.165 When asked about whether the release of information would make Qantas 'look bad', DITRDCA responded:

Well, I think, yes. It says 'or' and that puts them all under the and/or thing. They are all terms used in the Office of the Australian Information Commissioner's guidelines. Those terms are used. I suspect on transmission it might actually be better put an extra 'or' into the document, because they're not all necessarily relevant to each of the documents. It should really read 'financial loss or exposure to ridicule' so that we're not actually saying that 'exposure to ridicule' is one of the reasons for that particular...²²²

Upcoming bilateral air service agreement negotiations

2.166 Though the Government does not publish its forward negotiating program of bilateral air service agreements, the committee understands that parts of the aviation industry have been consulted about arrangements with Vietnam and Türkiye.²²³

2.167 Turkish Airlines' General Manager Australia and New Zealand, Mr Ahmet Halid Kutluoglu, confirmed that in the first week of August 2023 the Turkish Directorate General of Civil Aviation handed a request to Australia for increased capacity.²²⁴ He said that Australia's current agreement with Türkiye allows seven weekly flights but more are sought because 'without the freedom right and with only seven flights, it doesn't seem very possible to build a future plan'.²²⁵

2.168 Mr Kutluoglu also commented on the progress of negotiations:

We are still, till this day, expecting a reply from their side. It is important to have a quick response because in aviation, as you know, everything is about planning. We have to plan six to eight months prior—we need to make sales in order to start. Our first aim was actually to start in December, slowly sending direct flights into Australia for the first time. But now it doesn't seem possible to start in December, so we are expecting to finalise these talks with Civil Aviation as soon as possible so we can make a new plan for flights into Australia.²²⁶

²²¹ Mr Jim Wolfe, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 18.

²²² Mr Jim Wolfe, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 18.

²²³ DITRDCA, *Submission 13*, p. 6; Board of Airline Representatives of Australia, *Submission 17*, pp. 1–2.

²²⁴ Mr Kutluoglu, Turkish Airlines, *Proof Committee Hansard*, 26 September 2023 p. 13.

²²⁵ Mr Kutluoglu, Turkish Airlines, *Proof Committee Hansard*, 26 September 2023 p. 14.

²²⁶ Mr Kutluoglu, Turkish Airlines, *Proof Committee Hansard*, 26 September 2023 p. 15.

- 2.169 Documents tabled at the committee's hearing appear to show that Turkish Airlines' General Manager Australia and New Zealand, Mr Ahmet Halid Kutluoglu, wrote to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts on 28 November 2022 requesting permission to fly services to Australia, and seeking to meet with senior officials in person.²²⁷ The meeting occurred on 14 February 2023, following which the department provided information as to the regulatory approvals that would be required, including from the department, the Civil Aviation Safety Authority and the Department of Home Affairs.²²⁸
- 2.170 This evidence indicates there is a longer period of discussion between Turkish and Australian representatives than disclosed by the office of the Minister for Infrastructure, Transport, Regional Development and Local Government, Catherine King, who told media in July 2023 that Turkish aviation authorities 'applied for initial discussions on updating air services arrangements with Australia earlier this month...'²²⁹
- 2.171 Qantas was certainly aware of the Turkish interest, having provided a submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts two weeks earlier, on 7 July 2023.²³⁰
- 2.172 From the time of its initial request in November 2022, Turkish Airlines had originally planned to commence flights to Australia in December 2023, but found the bilateral negotiations to progress slowly; Mr Kutluoglu said '[b]etween the two civil aviation offices, the talking was going a bit slow.'²³¹
- 2.173 When asked about whether the delays of concern were applications to the Civil Aviation Safety Authority, Turkish Airlines said:

But the waiting period wasn't about these applications. The waiting period was about the bilateral submission or the bilateral talking going slow.²³²

²²⁷ Documents tabled by the Chair, Senator the Hon Bridget McKenzie, at public hearing on 26 September 2023, document number 6, pp. 1–3.

²²⁸ Documents tabled by the Chair, Senator the Hon Bridget McKenzie, at public hearing on 26 September 2023, document number 6, p. 10.

²²⁹ Ayesha de Kretser, 'Minister says government will review Turkish air rights', *Australian Financial Review*, 24 July 2023, <https://www.afr.com/companies/transport/minister-says-government-will-review-turkish-air-rights-20230724-p5dqv1> (accessed 9 October 2023).

²³⁰ Qantas, answer to questions on notice, public hearing, 27 September 2023 and answer to written questions on notice (received 5 October 2023), document number 22, [pp. 5-6].

²³¹ Mr Kutluoglu, Turkish Airlines, *Proof Committee Hansard*, 26 September 2023 p. 13.

²³² Mr Kutluoglu, Turkish Airlines, *Proof Committee Hansard*, 26 September 2023 p. 15.

2.174 From first approaching the Government in November 2022 intending to offer services in December 2023, agencies met in August 2023:

Well, I don't know how long these things usually take out here in Australia. This talking, this writing, kept going between the two civil aviations. But our two civil aviations got together in the first week of August, as far as I know. From our perspective, we usually act a bit quicker. There's a sense on our side that maybe, as our chairman said, issues developed.²³³

2.175 The Brisbane Airport Corporation commented on the need to provide clarity on the decision making processes and criteria used in order to inform decisions:

A more balanced, transparent and strategic approach to ASAs will not only benefit passengers, exporters and tourism businesses, but also ensure that this country remains well connected to the world's key aviation hubs, both now, and into the future.²³⁴

2.176 Mr James Goodwin, Chief Executive, Australian Airports Association, submitted:

Aviation has very long lead times—so better forward planning and better interaction in negotiations. If there is a concern, for instance, then being able to hear from different sides on how that might be resolved is all part of a negotiation process, and airports would support being part of that as early as possible because that assists with their planning, capacity and staffing issues that would go with that to help support the airlines.²³⁵

2.177 The Board of Airline Representatives of Australia commented on the proposals for both Vietnam and Türkiye:

- Regarding Vietnam, it submitted that the limit on services 'needs to be lifted *ahead of demand*'. Currently, 40 of the available 42 weekly slots are used, 'leaving only 2 weekly slots which will be *restricting schedule choice or optimisation decisions* by any of the incumbent carriers seeking to increase their number of services, thereby *supressing potential new service introduction*'.²³⁶
- Regarding Türkiye, it suggested that the current limit of seven services per week is '*inadequate to encourage the long-term strategic investment* required by particularly Turkish Airlines (IATA TK, ICAO THY) to start direct services'. It proposed that a '*minimum viable bilateral arrangement to encourage such*

²³³ Mr Kutluoglu, Turkish Airlines, *Proof Committee Hansard*, 26 September 2023 p. 15.

²³⁴ Brisbane Airport Corporation, *Submission 12*, p. 5. See also Mr Ryan Both, Executive General Manager, Brisbane Airport Corporation, *Proof Committee Hansard*, 26 September 2023, p. 34.

²³⁵ Mr James Goodwin, Australian Airports Association, *Proof Committee Hansard*, 27 September 2023, p. 17.

²³⁶ Board of Airline Representatives of Australia, *Submission 17*, p. 2.

services over the next 5 years would be an immediate lift to 21-28 services/week to the major airports'.²³⁷

²³⁷ BARA, *Submission 17*, p. 2.

Chapter 3

Key issues for Australia's aviation industry

3.1 In the course of this inquiry, witnesses and submitters raised a range of issues regarding challenges and opportunities for Australia's aviation industry. The committee heard evidence about a range of pressing issues facing the aviation industry, which are related to bilateral air service agreements as well as other factors. This chapter examines key issues as follows:

- Competition in the aviation industry, including regular reports by the Australian Competition and Consumer Commission (ACCC).
- Consumer protections in aviation.
- The management of airport slots.
- Brisbane Airport demand management.
- Air cabotage arrangements.
- Regional security screening.

Competition in the aviation industry

3.2 A range of inquiry participants expressed concerns about the level of competition in Australia's aviation sector and that this has negative effects for the aviation sector, consumers, and the economy more broadly.

3.3 A distinction was drawn between international and domestic markets, with less competition in the latter. Ms Anna Brakey, Commissioner at the ACCC, explained:

In the domestic market, we see that nine out of every 10 passengers fly with either Qantas or Virgin. Qantas is the largest, with a bit over 60 per cent, and Virgin has about 33 per cent of the market. Together they have around 95 per cent of the market. In the international market, Qantas holds about half of the domestic market share. There are just more airlines flying in. That's the basis for our conclusion that the domestic market is more concentrated than the international market, although the international market does vary route by route.¹

3.4 Professor Rod Sims AO spoke about the difficult environment for competition:

I think the only way to characterise what is going on is an effective duopoly between Qantas and Virgin. I think they're actually closer to two-thirds of the market. Whether it is 60 or 65 per cent, having one player in any market with that much market share means they have excessive market power. I think that's the way I'd describe it. They're not in a monopoly, because Virgin is there, so there are two of them, but Qantas is by far and away the dominant player. It has both its premium service and its Jetstar service which it can use strategically, so it does make it very difficult for

¹ Ms Brakey, ACCC, *Proof Committee Hansard*, 22 September 2023, pp. 44–45.

competitors. And not getting access to slots makes it impossible for competitors.²

3.5 Dr Tony Webber elaborated on the level of competition in both the domestic and international markets:

Domestic competition is obviously quite significantly affected by the dominant market share of the Qantas Group. It has weakened materially since pre COVID, mainly by virtue of the fact that we've seen the exit from the market of Tiger Airways, which was seven per cent of the market, and Virgin is not the same carrier as it was pre COVID. I think, domestically, there is a material amount of market dominance from Qantas. Typically, the way you measure that is to look at their margins and the significance of their profit. Their FY 23 profit was one of the highest in the airline's history.

Internationally, there is materially more competition. That's by virtue of the fact that the Qantas Group's market share domestically is between 65 per cent and 70 per cent, and in the international market it's materially less—less than half of that. The competition that Qantas faces internationally is much stronger than we see with Virgin. That's largely because of the quality of the carriers that it's up against, the quality of their product and the fact that they can provide services at a lower unit cost. Qantas are up against the likes of Singapore, Cathay, Qatar and Emirates, which are very, very high-quality carriers, and it's more difficult for them to compete in that space.³

3.6 Qantas confirmed that '[i]nternationally, Qantas competes against more than 50 carriers and total market capacity has more than doubled over the past year'. In relation to domestic travel Qantas did not share competition concerns and noted:

Domestic travel has never been more competitive. For the first time, there are now four large jet operators and as the ACCC noted in its monitoring, with Rex expanding onto mainline routes and the entry of Bonza, competition in Australia has increased following the restart from COVID-19.⁴

3.7 In relation to competition in the domestic aviation market, Ms Hudson emphasised on behalf of Qantas:

We welcome competition. I think that's actually a really important part of Australia. We have one of the most open and competitive markets across the globe. We think it's important, though, that you strike the right balance between growth and growth in tourism but also maintaining a healthy Australian aviation market at the same time.⁵

² Professor Rod Sims AO, *Proof Committee Hansard*, 27 September 2023, p. 49.

³ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p. 8.

⁴ Qantas, *Submission 147*, p. 3.

⁵ Ms Vanessa Hudson, *Proof Committee Hansard*, 27 September 2023, p. 68.

3.8 Qantas spoke about the effects of competition:

This level of competition both domestically and internationally compels the sector to invest and innovate to reduce costs and deliver better service and products to customers. Far from seeking to avoid it, competition has driven some of the Qantas Group's best innovations, including the establishment of Jetstar, which has put air travel within the reach of Australians who had previously never flown.⁶

3.9 The Australian Chamber – Tourism described potential benefits of improving competition in aviation, submitting that '[i]ncreased competition through additional flights will bring more tourists to Australia and reduce the cost of those flights - a win-win for travellers and Australia's visitor economy.'⁷ In addition, the Victorian Chamber of Commerce and Industry submitted that competition in the airline industry 'fosters innovation and drives airlines to continually improve their services, leading to enhanced customer satisfaction. It results in more choices and lower prices for passengers, thereby enhancing the accessibility and affordability of air travel for a broader range of people and increasing airfreight and export opportunities.'⁸

3.10 Dr Peter Forsyth submitted:

Airlines continually argue that if competition is allowed in a market they would cease to survive. However, when put to the test they do survive, and sometimes thrive.⁹

Effects of concentration

3.11 The Australian Airports Association advanced that '[t]he aviation sector has become one of the most concentrated markets in Australia, both domestically and internationally. This has resulted in a lack of competition, higher airfares and a lower level of service for the travelling public.'¹⁰

3.12 Dr Webber advised the committee that 'Qantas Group's market share domestically is between 65 per cent and 70 per cent, and in the international market it's materially less—less than half of that'.¹¹ When asked about the aggressiveness of Qantas in protecting its market share, Dr Webber said:

Qantas is one of the most aggressive competitors I know. It's an exceptionally aggressive competitor. If a new carrier encroaches on its routes or on its market share then it will aggressively respond. It will do that by adding capacity to routes. It will do that by greater pursuit of corporate

⁶ Qantas, *Submission 147*, p. 4.

⁷ Australian Chamber – Tourism, *Submission 10*, [p. 1].

⁸ Victorian Chamber of Commerce and Industry, *Submission 19*, [p. 2].

⁹ Dr Peter Forsyth, *Submission 18*, [p. 7].

¹⁰ Australian Airports Association, *Submission 7*, p. 1.

¹¹ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p. 8.

markets. That's particularly domestically. It has less of an opportunity internationally because it's a less dominant carrier, but it particularly flexes its muscles domestically...¹²

- 3.13 Rex provided the committee with copies of complaints it made to the ACCC regarding what it alleged was anti-competitive behaviour by Qantas.¹³ Mr John Sharp AM also provided specific examples of the types of anti-competitive behaviour it had been exposed to by Qantas:

If you were running an airline like Qantas, would you deploy an aircraft that's worth US\$20-odd million, with all those crews and backup services, into a market that had 134, 210 or 417 passengers for the month? That's not a commercial judgement in my view, but that's exactly what Qantas did, and they did it into routes that they'd never shown any interest in until we announced that we were going to move into the domestic airline market. That's what I referred to as bullying. I think it's very aggressive behaviour.¹⁴

- 3.14 Professor Allan Fels AO responded to a question about whether Qantas has exploited its effective monopoly to leverage excess profits and price gouge:

I think in recent times that it's obvious in the international sphere. I don't have much evidence on the local market. I wouldn't be surprised.¹⁵

- 3.15 Professor Fels agreed that the federal government and its policies have played a role in maintaining Qantas's position as the dominant player, adding that the effect is to make sure 'the market is not too competitive'.¹⁶

- 3.16 Mr Tim Jordan, CEO of Bonza Airlines also outlined the direct impact of Qantas behaviour on competition in the Australian aviation sector, especially for the introduction of low-cost carriers and new entrants to the market.

As a consequence of lack of competition, low-cost operated routes have not grown in Australia like in the rest of the world. In 2010 there were 58 low-cost operated routes in Australia. In 2019, just pre-COVID there was—guess what—58 low-cost operated routes in Australia. That is zero per cent growth in Australia, when the rest of the world was busy growing low-cost travel and competitive options. For example, in North America the low-cost carrier operators grew their low-cost routes by some 256 per cent over the same period. Australia was zero.¹⁷

- 3.17 Qantas submitted:

The suggestion that Qantas should effectively 'sit still' or 'make way' for its competitors is not reasonable and not how any business operating in a

¹² Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p. 10.

¹³ Rex, *Submission 67*, [p. 1].

¹⁴ Mr John Sharp, *Proof Committee Hansard*, 27 September 2023, p. 98.

¹⁵ Professor Allan Fels AO, *Proof Committee Hansard*, 27 September 2023, p. 30.

¹⁶ Professor Allan Fels AO, *Proof Committee Hansard*, 27 September 2023, p. 30.

¹⁷ Mr Tim Jordan, *Proof Committee Hansard*, 27 September 2023, p. 22.

competitive industry can sustainably operate. Importantly, 'sitting still' would also lead to an inferior outcome for the Australian public by diminishing competition among carriers and reducing choice for customers.¹⁸

3.18 Professor Fels was in favour of a divestiture power:

I'm strongly in favour of a divestiture power. I believe it would have a very big effect on behaviour, including by Qantas. The fact is that anticompetitive behaviour, in terms of breaching section 46 of the Competition and Consumer Act, the misuse of market power—that law is not effective. There are very few fines. Even if there are, they are quite small relative to the harm. If firms knew there was a possibility of break-up—in the case of Qantas, the separation of domestic from international—it would have a major effect on their behaviour.¹⁹

3.19 Professor Rod Sims AO agreed that divestiture needs to be considered but emphasised that in the context of aviation:

divestiture is not so much the issue; the slots are the issue. The slots are what they've got. If you wanted divestiture in aviation, you'd get them to divest the slots. That's the problem. It's not like in rail freight, where you have dominance on the east coast, where you could get divestiture. Again, you'd be divesting pathways. If we're thinking aviation, the slots are the crucial issue to open up competition. That's why it's dreadful that they're being governed by the companies that are benefiting from them.²⁰

3.20 Canberra Airport submitted that the 'domestic airline market is one of the most concentrated, unregulated (and now un-monitored) industries in Australia' and emphasised that 'Qantas and Virgin control 95.1 % of the market which is staggering. This is why there is no real price competition and why airfares are so high.'²¹ Canberra Airport submitted that 'Australia needs to have a third independent and competitive airline operating in the domestic airline market'.²² It also made proposals relating to monitoring and investigation by the ACCC, a National Standard for Airline Cancellations, and consumer rights when flights are cancelled.²³

3.21 The Chief Executive Officer of Canberra Airport, Mr Stephen Byron, submitted:

Competition in a domestic airline industry is mainly driven on price by the low-cost carrier, and we're not seeing that competition. If we look forward three, four and five years, either we need to have an independent third airline with at least 15 per cent of the market or we need to end up with an

¹⁸ Qantas, *Submission 147*, p. 4.

¹⁹ Professor Allan Fels AO, *Proof Committee Hansard*, 27 September 2023, p. 31.

²⁰ *Proof Committee Hansard*, 27 September 2023, p. 48.

²¹ Canberra Airport, *Submission 64.1*, p. 1. Emphasis removed.

²² Canberra Airport, *Submission 64.1*, p. 5.

²³ Canberra Airport, *Submission 64*, pp. 5–7; Canberra Airport, *Submission 64.1*, pp. 5–6.

outcome where Qantas does not continue to be the owner of both Qantas domestic and Jetstar, so that Jetstar would be a true independent airline and would provide competition.²⁴

Cancellations and delays

3.22 A particular concern expressed by Canberra Airport was the rate of cancellations by Qantas, which it linked to the level of competition:

There is a clear operating practice in place by Qantas to prioritise the cancellation of Canberra to Sydney flights over the cancellation of other flights. Would this be sustainable in a truly competitive market (Qantas have approximately 78% of passengers on this route)?²⁵

3.23 Canberra Airport highlighted that the level of cancellations by Qantas on the Canberra to Sydney route is 'exceptionally bad - consistently the worst in the country'. It said that in July 2023 Qantas cancelled 'a staggering 11.5% of flights or a total of 53 flights from Canberra to Sydney', which is more than three times the rate of cancellations by Virgin at 3.6 per cent:

These cancellation rates of Qantas on the Canberra to Sydney route massively exceed those of Virgin Australia (whose service is operated by Link Airways) despite flying in the same weather conditions and flying under the guidance of the same air traffic controllers.²⁶

3.24 Canberra Airport's CEO, Mr Byron, also submitted 'I think reforming the slot system urgently is an absolutely critical part of fixing the cancellations now. I also think it's a key part of improving competition in the marketplace for domestic aviation, which will lead to lower airfares for Australians.'²⁷

3.25 The committee heard that a factor contributing to cancellations is the availability of air traffic control staff in certain airports due to limited staff available to deploy in the event of illness. The Chief Customer and External Relations Officer of Airservices Australia, Mr Peter Curran, explained that this was a result of an air traffic controller retirement incentivisation scheme brought in during COVID-19. Despite planning, issues were encountered in relation to the throughput of trainees during the COVID lockdowns and border shutdowns and air traffic levels returned sooner than the forecast recovery.²⁸ While there is currently a focus on recruitment, Mr Peter Curran, explained that the consequences of staff limitations include that:

...we've had to implement a range of procedures where, to maintain aviation safety, we restrict the throughput—we restrict capacity. At no stage

²⁴ Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard*, 22 September 2023, p. 4.

²⁵ Canberra Airport, *Submission 64*, p. 3.

²⁶ Canberra Airport, *Submission 64*, p. 1.

²⁷ Mr Byron, Canberra Airport, *Proof Committee Hansard*, 22 September 2023, p. 3.

²⁸ Mr Peter Curren, Airservices Australia, *Proof Committee Hansard*, 19 September 2023, pp. 1-3.

has safety been impacted, but we have had to reduce the number of aircraft that can fly through given volumes of airspace, and that's had the effect of delays and also a level of cancellation....²⁹

3.26 For example, Mr Curran noted that in Sydney 'we've seen a little over 100 cancellations in total during the month of August, of which Airservices was responsible for approximately four per cent'.³⁰

3.27 Regarding cancellations, the Chief Executive Officer of Sydney Airport, Mr Geoff Culbert, acknowledged that '[o]n average we see cancellations due to weather and traffic control contributing around 50 per cent to the overall cancellations', though also said:

But it's not the only reason. We also see a scenario where the cancellation rates between different airlines differ. If you go back to February this year, Jetstar were cancelling 16.2 per cent of flights on the Sydney-Melbourne route, Qantas were cancelling 11.3 per cent, Virgin were cancelling 9.4 per cent and Rex were cancelling three per cent. These airlines were all flying out of the same airport on the same day in the same weather with the same air traffic control, so unless each individual airline had a different weather cell following it around the airport, it's hard to understand why there was such a big difference.³¹

3.28 Mr Ryan Both, Executive General Manager, Aviation at Brisbane Airport Corporation further explained the flow on effects that these cancellations had on the broader Australian airport network, especially related to Sydney airport:

There's the saying in the industry that when Sydney has a sneeze the rest of Australia catches a cold. Whenever an airport is at capacity or near capacity and there is a disruption, it has a significant ripple effect in the system. And that's what we see every time there's a weather disruption or other disruption in Sydney—it affects the major ports.³²

Competition monitoring of the sector

3.29 A specific proposal regarding addressing competition related to ACCC reports on airline competition in Australia. These have been published every quarter for the last three years, following a direction by the Treasurer on 19 June 2020 under subsections 95ZE(1) and 95ZH(1) of the *Competition and Consumer Act 2010*. In these reports, the ACCC monitored prices, costs and profits relating to the

²⁹ Mr Peter Curran, Airservices Australia, *Proof Committee Hansard*, 19 September 2023, p. 2.

³⁰ Mr Peter Curran, Airservices Australia, *Proof Committee Hansard*, 19 September 2023, p. 2.

³¹ Mr Geoff Culbert, Sydney Airport, *Proof Committee Hansard*, 19 September 2023, p. 39.

³² Mr Ryan Both, Brisbane Airport Corporation, *Proof Committee Hansard*, 26 September 2023, p. 33.

supply of domestic air passenger transport services.³³ This direction expired after three years, with the 12th and final report released in June 2023.³⁴

3.30 In its evidence to the committee, Qantas noted that it gave feedback to the Australian Government in which it did not support continuation of the ACCC reports on airline competition in Australia:

We were asked by the government whether we supported the continuation of the monitoring regime and we said that we did not.³⁵

3.31 The Chief Executive Officer of Qantas, Ms Vanessa Hudson, said:

We don't support a continuation of that review, because the findings were not significant. We also comply continuously with the ACCC and we collaborate with them continuously in the monitoring powers that they have in an existing way.³⁶

3.32 The view of Qantas was not shared by a range of other witnesses. For example, Mr Byron, Chief Executive Officer of Canberra Airport, was of the view that 'it is imperative for the ACCC monitoring to be continued and, in some ways, I find it astounding that it was ever ended'.³⁷ He also stressed that 'it's very important that there's no gap in the reporting that they've been doing'. He said:

I believe the ACCC has much to report on, particularly following the release of the Qantas, Alliance Airlines and Regional Express annual financial results and all of the other matters that have been going on—in particular in relation to the COVID flight credits deadline, where Qantas, under the pressure of litigation, removed the deadline but it remains for Virgin. I think there's further work to be done in relation to the issue of airline credits where the airline's cancelled the flight. I don't know why there's allowed to be a deadline at all on any of the credits. This is just an effort by Qantas and Virgin to get a windfall profit at a 100 per cent margin, and what they are doing is taking the customers' money when they haven't provided the service.³⁸

3.33 The continuation of the ACCC reporting was also supported by the Australian Travel Industry Association:

This reporting allows oversight into the overall health and recovery of the domestic aviation sector to support Australia's overall economic growth.

³³ ACCC, *Airline competition in Australia*, September 2023, p. 2.

³⁴ ACCC, *Airline competition in Australia*, June 2023, p. 4.

³⁵ Mr Andrew Finch, General Counsel and Group Executive, Office of the Chief Executive Officer, Qantas Group, *Proof Committee Hansard*, 27 September 2023, p. 78.

³⁶ Ms Vanessa Hudson, Chief Executive Officer and Managing Director, Qantas Group, *Proof Committee Hansard*, 27 September 2023, p. 78

³⁷ Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard*, 22 September 2023, p. 6. Also see Canberra Airport, *Submission 64.1*, p. 5.

³⁸ Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard*, 22 September 2023, p. 8.

This quarterly report allows consumers and industry stakeholders to receive timely and relevant information about capacity, prices and consumer complaints.³⁹

- 3.34 The Chief Executive Officer of Cairns Airport, Mr Richard Barker, also expressed support for competition monitoring:

From our perspective one of the things that we would be supportive of—and this is a recommendation that has been made by others—is the restoration of the monitoring of airlines and their performance. As noted by other participants, it's a very heavily concentrated industry. While the large airports are monitored to make sure that they are behaving appropriately, I think monitoring the competition of the domestic aviation market is important.⁴⁰

- 3.35 Mr Byron, Canberra Airport, submitted that the monitoring regime 'was very successful', and made suggestions for improvement:

I think they [the ACCC] could have a specific remit to have a show-cause process where there are cancellations, and they could also be charged with a pricing inquiry into the way in which airfares are set and the way in which dynamic pricing plays out in an industry where two players have 95 per cent of the market. Dynamic pricing is relatively common in the Australian economy—for example, in hotels. That plays out in cities that have literally hundreds of hotels, but here, with the concentration of Qantas and Virgin, the way in which they set prices and monitor each others' prices, and who is leading the prices up as seats fill up, is a matter that warrants further inquiry. They would have the ability to support the government in developing a policy approach to deliver a more competitive aviation market.⁴¹

- 3.36 Ms Carla Jayne Hrdlicka, CEO and Managing Director, Virgin Australia commented:

We're very open to that monitoring regime being extended. This was before my time, but I think we asked for it in the first place. We embrace the process. It does require a lot of additional time from our team to support that process, but we felt like that was time well invested to ensure that we had good perspective ourselves on what was important to the ACCC and that we were with a good overlay from a competition regulator standpoint on the industry itself, given my comments earlier about the imbalance of power in our industry.⁴²

³⁹ Australian Travel Industry Association, *Submission 1*, p. 20.

⁴⁰ Mr Richard Barker, Chief Executive Officer, Cairns Airport Pty Ltd, *Proof Committee Hansard*, 26 September 2023, p. 74.

⁴¹ Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard*, 22 September 2023, p. 8. See also Canberra Airport, *Submission 64*, pp. 5-6.

⁴² Ms Carla Jayne Hrdlicka, CEO and Managing Director, Virgin Australia, *Proof Committee Hansard*, 27 September 2023, p. 43.

3.37 Mr James Goodwin, Chief Executive, Australian Airports Association submitted:

In fact the airports, for instance, are formally monitored by the ACCC, and, even going back to June 2022, we called on the Australian government to extend and fund the ACCC's monitoring of airlines. We've had some long correspondence and a long history of calling for that. We feel that provides the evidence that both consumers and the regulator need to be able to make decisions. So that's very important.⁴³

3.38 Mr Goodwin added that '[o]ne of the strongest recommendations we'd like to see out of this is that the ACCC resumes the airline monitoring'.⁴⁴

3.39 Mr Jim Parashos, Acting Chief Executive Officer, Melbourne Airport, also supported the ACCC monitoring:

We do support the re-introduction of the ACCC airline monitoring. I think that would be an appropriate starting point. We also really support bringing back confidence into the Australian domestic travel market because we are of the view that the uncertainty as to whether people will get away on time or around high cancellations does have a dampening effect on demand. We are at 97 per cent of pre-COVID international capacity and at just over 90 per cent for domestic, so we are lagging significantly in domestic recovery, which I think also speaks to the need for additional capacity. I think it's also important to highlight that, in our agreements with our airline customers, we have contractual service level agreements with them around infrastructure, aerobridge availability, gate availability and so forth, and we are financially penalised as airports when we cannot or do not provide the infrastructure for a range of reasons. We think that, given that the airlines are happy for that approach with us as airport customers, the same should apply to the travelling public.⁴⁵

3.40 In its final report, the ACCC observed that the direction expired and said that a 'further direction to the ACCC would provide continued transparency and scrutiny of the industry at a time when new and expanding airlines are still trying to establish themselves'.⁴⁶

Consumer protections in aviation

3.41 Evidence in the inquiry contemplated protections for consumers dealing with delays, cancellations, and other issues. For example, Ms Rosie Thomas, Director, Campaigns and Communications, CHOICE, said that '[c]onsumer advocates

⁴³ Mr James Goodwin, Australian Airports Association, *Proof Committee Hansard*, 27 September 2023, p. 17.

⁴⁴ Mr James Goodwin, Australian Airports Association, *Proof Committee Hansard*, 27 September 2023, p. 20.

⁴⁵ Mr Parashos, *Proof Committee Hansard*, 26 September 2023, p. 37.

⁴⁶ ACCC, *Airline competition in Australia*, June 2023, p. 30.

have been highlighting problems in the airline market for many years.⁴⁷ CHOICE highlighted a major report it published in July 2021 which 'found there are a number of key problems in the aviation sector', many of which 'remain ongoing'. These include 'inconsistent and often unsatisfactory rights for consumers' and 'difficulties when consumers try to understand or exercise their rights to receive a remedy'.⁴⁸

3.42 An existing body to support aviation consumers is the Airline Customer Advocate. This is a free and independent service to eligible customers of Australian airlines which seeks to facilitate resolution of unresolved complaints about airline services. In a June 2023 report, the ACCC observed that this 'industry-based scheme' is 'generally ineffective'.⁴⁹

3.43 This view was supported by Mr Brody, Chair of the Consumers Federation of Australia, who said the Airline Customer Advocate 'in our view, has been a failure'. He explained:

For example, during the period of COVID, it contended it could not accept the most common complaints from consumers around COVID related cancelled travel. So that was a fail. We'd also suggest that eligible complaints to that entity must have followed an internal process first, at the airline, but we hear that customers can't access that internal process, so then they give up, and I think complaint fatigue sets in. I think there does need to be a new system for complaints, both at the internal level and at the external level with an ombudsman scheme.⁵⁰

3.44 The establishment of a travel and tourism industry ombudsman was recommended by CHOICE, which proposed the ombudsman would investigate complaints and 'have the power to issue determinations and decisions which industry are obliged to act on'.⁵¹ Ms Rosie Thomas, Director, Campaigns and Communications, CHOICE, said this ombudsman would replace the Airline Customer Advocate.⁵²

3.45 Mr Brody of the Consumers Federation of Australia gave further comment on the proposed ombudsman, saying that:

...for other sectors where there is an external ombudsman appointed, those ombudsmen have to meet benchmarks which are published by Treasury. They include the need to be independent, effective, accountable et cetera.

⁴⁷ Ms Rosie Thomas, CHOICE, *Proof Committee Hansard*, 19 September 2023, p. 53.

⁴⁸ CHOICE, *Submission 98*, pp. 1–2.

⁴⁹ ACCC, *Airline competition in Australia: Final Report*, June 2023, p. 29.

⁵⁰ Mr Gerard Brody, Consumers Federation of Australia, *Proof Committee Hansard*, 19 September 2023, p. 54.

⁵¹ CHOICE, *Submission 98*, pp. 2–3.

⁵² Ms Rosie Thomas, CHOICE, *Proof Committee Hansard*, 19 September 2023, p. 53.

Currently, the Airline Customer Advocate does not meet those minimum benchmarks. We would say that establishing a new travel and tourism industry ombudsman that actually has greater resources to resolve disputes and meet those minimum benchmarks would be necessary.⁵³

- 3.46 Ms Thomas said CHOICE also recommends 'the federal government introduce minimum consumer protections for airlines'. Of these protections, she explained:

CHOICE and [the Consumers Federation of Australia] recommend that these include a compensation scheme for delayed and cancelled flights; clearer rights to refunds, including additional refund protections for people experiencing financial hardship; minimum requirements for travel vouchers or credits; and minimum requirements for customer service, including during high-demand times.⁵⁴

- 3.47 It was noted that in the European Union, Canada, the US and UK, there are certain consumer rights where passengers are entitled to compensation for delayed or cancelled flights. Dr Webber provided his view on this proposal:

I think that it would be difficult to apply internationally simply because the international business across most routes around the world has a very thin margin. It is very easy for those businesses to turn from being a profit-making to being loss making. It just takes a \$10 or \$15 jump in the jet fuel price overnight to completely annihilate the profits on those routes. Those margins are very, very sensitive. Adding additional costs to that sector would be difficult to apply. Domestically, it is a different matter though. Domestically, competition is such that we have two dominant carriers. One is very dominant and the other less so. The ability to increase prices in response to high unit costs is easier domestically. In my view, most passengers value their time. If their time is wasted then they should be compensated.⁵⁵

- 3.48 The Australian Travel Industry Association submitted that '[w]ithout a strong consumer protection framework that is fit-for-purpose in the aviation industry - like that present in the EU for statutory compensation in certain instances of delay or cancellation - Australian consumer outcomes will remain sub-optimal.' It recommended:

Globally, consumer rights have been strengthened following the performance of airlines regarding cancellations and credits during COVID.

Reform is needed to simplify refund rights where a flight is cancelled, and passengers are not accommodated on the same day.⁵⁶

⁵³ Mr Gerard Brody, Consumers Federation of Australia, *Proof Committee Hansard*, 19 September 2023, p. 57.

⁵⁴ Ms Rosie Thomas, CHOICE, *Proof Committee Hansard*, 19 September 2023, p. 53. Also see CHOICE, *Submission 98*, p. 3.

⁵⁵ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p. 11.

⁵⁶ Australian Travel Industry Association, *Submission 1*, pp. 2-3.

3.49 Ms Thomas, CHOICE, supported 'a compensation scheme similar to what they have in Europe' and was of the view these changes need to occur more quickly than the timeline for the Green and White papers:

If flights are delayed more than a certain amount then there'd be a bit more standardisation and prescription around what you're entitled to. Currently, whether or not you get a meal voucher will depend not just on the airline but also on the class of booking and everything.⁵⁷

3.50 Mr Brody, Consumer Federation of Australia, expressed the view that 'rules relating to frequent flyer points—access to them, use of them et cetera—would be sensible to be the subject matter of the minimum consumer protections framework' proposed by CHOICE. He said:

Having standards that are equivalent across all airlines and their associated frequent flyer programs would ensure that people are able to access them when they need to, that they have a level of fairness and standardisation in their value that is not changed at the whim of the airlines and that there would be an oversight arrangement as well. Also, [Ms Thomas of CHOICE] mentioned the proposal for an aviation and tourism industry ombudsman. If people felt that in their particular circumstances they were treated unfairly, they could make a complaint to that ombudsman, who would be able to resolve that matter on the basis of what is fair and reasonable.⁵⁸

3.51 Mr Brody also referred to a proposal 'from the federal government to introduce an unfair trading prohibition to our consumer law'. He explained how this may apply to the frequent flyer points issue:

This would fill the gap that exists in the existing consumer law. Currently we have prohibitions on misleading conduct or unconscionable conduct or unfair contract terms, but not broader unfair trading practices. Changing, at will, the value or devaluing frequent flyer points that have been purchased on a certain understanding may well be in that category of an unfair trading practice. CHOICE and CFA are very strong supporters of that proposal, and Treasury is currently consulting on that.⁵⁹

3.52 Regarding flight credits, Mr Brody and Ms Thomas both observed that consumers have had varied experiences.⁶⁰ Mr Brody proposed 'there needs to be a minimum standard for credits and vouchers across all airlines'. He also posited that 'there shouldn't be any expiry requirement on credits and vouchers', and one option could be that the credits:

⁵⁷ Ms Rosie Thomas, CHOICE, *Proof Committee Hansard*, 19 September 2023, p. 55.

⁵⁸ Mr Gerard Brody, Consumers Federation of Australia, *Proof Committee Hansard*, 19 September 2023, p. 53; also see p. 54.

⁵⁹ Mr Gerard Brody, Consumers Federation of Australia, *Proof Committee Hansard*, 19 September 2023, p. 53.

⁶⁰ Mr Gerard Brody, Consumers Federation of Australia, *Proof Committee Hansard*, 19 September 2023, p. 54; Ms Rosie Thomas, CHOICE, *Proof Committee Hansard*, 19 September 2023, p. 55.

...do expire after a certain period—say, for a new flight service. At that point, they might be provided with cash. So there would be an incentive then for the airlines to give you access to your credit voucher rather than just stringing you along, as we've seen among the complaints relating to Qantas.⁶¹

3.53 Mr Stephen Byron, CEO, Canberra Airport offered his view:

I think the first thing that should happen when there's a cancellation is that the passengers should have an automatic right to get their money back. Hidden behind this business of tricky flight credits, people have clear stories and evidence of trying to use these flight credits with Qantas. They have a screen up with the normal booking system to look at available flights. The airline directs them to a second booking site to use the credit, and the same flights aren't there. For example, Qantas often will not have the direct Canberra-Gold Coast flight; they'll route you through Sydney if you're using a credit. So the first thing is that you must be allowed to get your money back if you don't like the flight they've rebooked you on automatically.

Secondly, quite often they will put you on a flight that doesn't work, for example, for an international connection. They'll put you on flights that don't work so you're forced to go and book a different flight for more money. Of course, we know that if you're booking at the last minute the airfares that airlines charge are ramped up to very high levels, so the airfare you have to book to fix the problem that they've caused is higher. Passengers should be compensated for that.⁶²

3.54 Mr Long of the Australian Travel Industry Association reported that the current situation regarding flight credits is challenging for travel agents:

...because those credits are run by the airline. We don't hold that money. The airline is holding that money. We think that there's probably about \$100 million maximum that sits there across all of our carriers in that credit space. We work very much proactively by getting in contact with as many customers as we can. What we have found is that there are some industry-wide redemption issues in regard to the systems and processes certain airlines have put in. Some airlines are doing it better, I think, particularly Virgin Australia, who set up a travel bank where you could access the total amount of money and use it on flights as they go through. The terms and conditions are still challenging. For example, if you've got a \$400 flight and you've got a \$500 credit, you can't use the \$500 credit on that \$400 flight. So there are a number of issues that need some further investigation...⁶³

3.55 Another consumer protection highlighted by Mr Brody was 'a proposal to make noncompliance with consumer guarantees unlawful'. He said:

⁶¹ Mr Gerard Brody, Consumers Federation of Australia, *Proof Committee Hansard*, 19 September 2023, p. 54.

⁶² Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard*, 22 September 2023, p. 4.

⁶³ Mr Dean Long, Australian Travel Industry Association, *Proof Committee Hansard*, 19 September 2023, p. 25.

Currently, in our consumer law, we have certain consumer guarantees, including that services must be provided with due care and skill and must be provided on time. That's relevant to airlines. But where those consumer guarantees are not met, the regulator—the ACCC or the state fair trading agencies—do not have power to enforce them. That is a huge gap in the effectiveness of those laws, because they create little deterrence for businesses that don't comply with those consumer guarantees, which are already expected in law.⁶⁴

3.56 The CEO of Canberra Airport, Mr Byron, suggested that improved competition would support better outcomes for consumers:

My concern is that, if we don't properly confront what is needed to change the marketplace, to move away from the dominance and concentration we have, then we're going to need more and more consumer protection. The big company, and the big airline, has no respect for its workers and no respect for consumers. That's why we need a much more competitive industry, and the white paper is a key part of that. The second key part of it is the ACCC's monitoring of the industry and the ability for it to provide frank and fearless reporting on a quarterly basis.⁶⁵

3.57 When asked for the ACCC's preliminary view on potential consumer protections, the Chair, Ms Gina Cass-Gottlieb, highlighted several matters including consumer guarantees, unfair trading practices, and an external independent ombudsman:

We consider, firstly, that there should be reform to the consumer guarantees under the Australian Consumer Law to make it a contravention for businesses to fail to provide a service as paid for or, as in this case, where there are cancellations, to provide a flight as soon as reasonably and practically possible after a cancellation. The problem currently is that, while there is a legal obligation to provide the consumer the benefit of the consumer guarantee, it is not a contravention of the act if they fail to do so. We are not able to take action showing against any company for a failure to comply with their consumer guarantee obligations. We think that law change will, as you are noting, really set standards and change behaviour by underlining that we would be able to take action for that failure. Secondly, we do consider that a successful implementation of an unfair trading practice, looking not only at terms but business processes and practices that don't give consumers the benefit of the rights that they have. For instance, if there is a capacity to cancel a subscription or to obtain service through a call centre, there should be a process in place to make it effective. We also think that there should be an independent external dispute resolution ombud scheme. We think the airline customer advocate is much too limited and is generally ineffective at creating change in behaviour. Finally, we think there's merit in the government further considering and consulting on a form of consumer compensation scheme, which would

⁶⁴ Mr Gerard Brody, Consumers Federation of Australia, *Proof Committee Hansard*, 19 September 2023, p. 56.

⁶⁵ Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard*, 22 September 2023, p. 8.

supplement the consumer guarantees by providing more specific protections.⁶⁶

Issues with loyalty programs

3.58 The committee received first hand evidence of the issues discussed above. It received over 100 submissions—which were published on the committee's website with the submitters' names withheld—from individuals expressing concerns about their experience with the Qantas frequent flyer program. A common grievance was that submitters felt their frequent flyer points were not as valuable as they should be, considering what points had been worth in the past, and this left them unable to travel as planned, sometimes after years of loyalty.

3.59 To take some examples, one submitter said:

Back between 2000 and 2010, I flew [e]very month with Qantas, hoping the credit points I earned on the more expensive Carrier would be provide me travel in times of need when money was tight.

I had also planned to surprise my two boys when they married, as when I stopped flying, my points were enough to secure two return tickets to Europe.

Over the last decade, I held onto these as a savings plan, only to now find out that they had been diluted severely and there is no longer the hope I had for my years of loyalty.⁶⁷

3.60 Another submitter referred to accumulating points 'through our loyalty to Qantas', however:

Unfortunately, it has come to our attention that the value of our frequent flyer points has been diminishing due to changes in the program, such as increased redemption rates, limited availability of reward flights, and additional fees and charges. This has left us feeling disheartened, as the points we have accrued were intended to provide us with a more accessible means of experiencing the world during our retirement years.⁶⁸

3.61 A further submitter said:

I am writing to join the many voices in grievance of Qantas' Frequent Flyer plunge in points value.

From a personal experience, I have found that points for both Melbourne to London and Los Angeles have almost doubled to what they were only a few years ago (I fly these legs reasonably often).

⁶⁶ Ms Cass-Gottlieb, ACCC, *Proof Committee Hansard*, 22 September 2023, p.p. 41–42; also see p. 49.

⁶⁷ Name withheld, *Submission 25*, [p. 1].

⁶⁸ Name withheld, *Submission 52*, [p. 1].

The amount of reward seats available has also dwindled to near non existence.⁶⁹

3.62 The committee gave Qantas an opportunity to respond to the submissions. A response from the Qantas Loyalty Chief Executive Officer, Ms Olivia Wirth, said:

The Qantas Frequent Flyer program is successful only because our 15 million members see value in the points they earn and use. In the 12 months to 30 June 2023, our members earned 175 billion points and redeemed 155 billion points. We appreciate that no two members are the same in how they choose to earn and use their Qantas Points. That is why we are expanding our program to offer a range of partners to earn with and rewards to enjoy.⁷⁰

3.63 The response outlined the approach by Qantas in relation to different aspects of frequent flyer rewards; including reward seat availability, classic reward seat pricing and points expiry. It also said that Qantas 'would appreciate the opportunity to engage with the members who have raised concerns so that we can address any outstanding issues directly'.⁷¹

3.64 The committee obtained appropriate contact details from Qantas and passed those details to the submitters so that they may contact Qantas about their concerns if they wish.

Management of airport slots

3.65 In October 2020, the then Department of Infrastructure, Transport, Regional Development and Communications commissioned an independent review into demand management at Sydney Airport. This was undertaken by Mr Peter Harris AO, who provided a report dated February 2021. The review was commissioned to determine if the Sydney Airport demand management objectives remain relevant and the scheme is fit-for-purpose, including through:

- providing for the efficient use of airport infrastructure, while managing the impacts of noise to maintain livability for the Sydney community,
- encouraging competition and resilience within the industry, and
- facilitating recovery from the COVID-19 pandemic, such as through being responsive to changes and opportunities in the market.⁷²

3.66 Following the Harris Review being handed down, DITRDCA commenced consultation with industry, community and government stakeholders. This included 25 technical working group meetings in order to provide advice on

⁶⁹ Name withheld, *Submission 76*, [p. 1].

⁷⁰ Qantas Loyalty, *Submission 141*, [p. 1].

⁷¹ Qantas Loyalty, *Submission 141*, [p. 1].

⁷² Mr Peter Harris AO, *Review of the Sydney Airport Demand Management Scheme*, February 2021.

specific proposals to give effect to the recommendations of the review of the Sydney Airport Demand Management Scheme.⁷³

- 3.67 Notwithstanding the Harris Review, some inquiry participants raised concerns about the management of airport slots and allegations of 'slot hoarding' by airlines. Slots refer to time periods for take off or landing granted to a specific airline by the operator of an airport. Slot hoarding refers to action taken by airlines to take up excessive airport use rights to prevent other carriers from accessing slots.
- 3.68 Evidence indicated that the salience of this issue varies between airports. While airport slots at Sydney Airport received close attention,⁷⁴ Darwin International Airport reported that it 'is not slot constrained and has very few limitations on airlines wishing to operate international services'.⁷⁵ In addition, the General Manager, Corporate Affairs at Perth Airport, Mr Brown, reported that 'there's no hoarding of slots', largely due to the shape of demand at that airport, though there had been issues in the past.⁷⁶
- 3.69 The purpose of airport slots is explained by the International Air Transport Association (IATA) in a public fact sheet:

Airport slots are a solution to a lack of airport capacity. Pre-assigned take-off and landing slots are required to avoid chaos at airports where the infrastructure cannot match demand. Allocating that capacity to airlines in a fair, neutral and transparent manner should be the role of an independent slot coordinator. This ensures the aviation industry can continue to grow and provide consumers the choice, destinations and connectivity they demand in a predictable way.⁷⁷

- 3.70 The IATA further explains that this process is supported by guidelines:

The Worldwide Airport Slot Guidelines (WASG) has been developed by airlines, airports and slot coordinators to provide a practical solution that can be applied to any airport globally to allocate and manage slots each season. The WASG, however, must be applied consistently and in entirety for the benefits to be fully realized at congested airports.⁷⁸

⁷³ See Ms Stephanie Werner, First Assistant Secretary, Domestic Aviation and Reform, Department of Infrastructure, Transport, Regional Development, Communications and the Arts, *Proof Committee Hansard*, 28 September 2023, p. 32; document 17 tabled by the department at the 28 September 2023 public hearing.

⁷⁴ For example, see Ms Brakey, ACCC, *Proof Committee Hansard*, 22 September 2023, p. 48.

⁷⁵ Darwin International Airport, *Submission 64*, p. 1. Also see Mr Anthony Edmondstone, Chief Executive Officer, Airport Development Group, *Proof Committee Hansard*, 22 September 2023, p. 12.

⁷⁶ Mr Matt Brown, General Manager, Corporate Affairs, Perth Airport, *Proof Committee Hansard*, 22 September 2023, pp. 68, 70–71.

⁷⁷ IATA, *Worldwide Airport Slots, Fact Sheet*, April 2023.

⁷⁸ IATA, *Worldwide Airport Slots, Fact Sheet*, April 2023.

- 3.71 Mr Peter Curran, Chief Customer and External Relations Officer, Airservices Australia, confirmed that the Australian slot system operates within the IATA worldwide slot system. He also clarified that airport slots are distinct from air traffic control slots, which are 'organised for the next day'. Airport slots 'are determined strategically every six months between the airport, ACA—Airports Coordination Australia—and airlines'.⁷⁹
- 3.72 Airport Coordination Australia advised that it is 'an Australian owned private company that provide[s] slot coordination services to airports in Australia and overseas'.⁸⁰ Its CEO, Ms Petra Popovac, reported that '[t]here are differences between the Sydney Airport Demand Management Act and the Worldwide Airport Slot Guidelines' (WASG), and suggested it would benefit the Australian regulatory environment 'to move more towards the Worldwide Airport Slot Guidelines, which is the global set of rules that most of the other airports and coordinators use to allocate slots at congested airports'.⁸¹
- 3.73 Ms Popovac spoke about areas where Australia is not meeting the WASG:
- The main one...is the new entrant rule—changing that. There has also been a change in the definition of the length of a new-entrant rule as well, which is important. Over the last five years the worldwide airport guidelines have changed quite dramatically. There is a more robust slot-monitoring section as well that can't be implemented because the Sydney Airport Demand Management Act overrides that.⁸²
- 3.74 Ms Popovac also spoke about how the WASG can be implemented with some local rules as required:
- With Perth and Brisbane the world airport slot guidelines are implemented with some local rules, so they're underpinned by the local rules. There needs to be local rules in Perth, for example, because of the heavy mining sector over there, and Brisbane is similar. Understanding that, in Sydney it's the same case where there's the regional ring fence, which is very different to anything in the world. Understanding that, that could be underpinned by adopting the world airport slot guidelines as they are and then having a local rule for regional services.⁸³
- 3.75 Regarding the process for allocating airport slots—which is relevant to allegations of slot hoarding—Ms Popovac explained that at the beginning of the

⁷⁹ Mr Peter Curran, Airservices Australia, *Proof Committee Hansard*, 19 September 2023, p. 4.

⁸⁰ Airport Coordination Australia, *Submission 3*, [p. 1].

⁸¹ Ms Petra Popovac, Airport Coordination Australia, *Proof Committee Hansard*, 19 September 2023, p. 47.

⁸² Ms Petra Popovac, Airport Coordination Australia, *Proof Committee Hansard*, 19 September 2023, pp. 50-51.

⁸³ Ms Petra Popovac, Airport Coordination Australia, *Proof Committee Hansard*, 19 September 2023, p. 51.

season, and an airline 'will ask for what I call their wish list, so everything they wish to operate in the season'. Airport Coordination Australia will then do an 'initial allocation', and two months later airlines will:

...send back all the cancellations of the slots they don't wish to operate to anymore. Then we have an operational schedule at that point in time. So, yes, there can be gaming of the system before that baseline date, but, after that baseline date, they need to operate 80 per cent of all of the slots they have to be able to get their slots back.⁸⁴

- 3.76 This is known as the 80-20 rule, whereby as long as an airline doesn't cancel more than 20 per cent of its slots, it will get to keep its slots in accordance with the regulation. Ms Popovac reported that 'as a slot coordinator, we allocate the slots, and we cancel them when the airlines request it'. Airlines do not need to provide a reason for the cancellation.⁸⁵ When asked, Ms Popovac suggested that there does not need to be change to the 80-20 rule:

I don't think so, because it's a global standard. It's 80-20 everywhere in the world except in one or two airports. The problem is that if you change that then it would become more onerous on international airlines to operate into Sydney when the flights in Haneda, Shanghai, Singapore or wherever it may be are on 80-20 and not on 90-10, for example.⁸⁶

- 3.77 However, Ms Popovac also advised that a slot compliance committee—comprising 'airlines, the BARA, a representative from Sydney airport, a representative from Airservices and a representative from the department, and ACA are observers'—has not met since 2015. After issues were identified with Jetstar's approach to slots:

The department's [Department of Infrastructure, Regional Development, Communications and the Arts] legal team looked at whether they could actually fine Jetstar, and they found that they couldn't. So, at that point in time, the department said that they were going to take a break from the compliance committee to work out a better way of organising the committee.⁸⁷

- 3.78 Several inquiry participants expressed concern about airport slot management. Professor Rod Sims AO highlighted the importance of interrogating the ownership of Airport Coordination Australia:

⁸⁴ Ms Petra Popovac, Airport Coordination Australia, *Proof Committee Hansard*, 19 September 2023, p. 48.

⁸⁵ Ms Petra Popovac, Airport Coordination Australia, *Proof Committee Hansard*, 19 September 2023, p. 47.

⁸⁶ Ms Petra Popovac, Airport Coordination Australia, *Proof Committee Hansard*, 19 September 2023, pp. 51-52.

⁸⁷ Ms Petra Popovac, Airport Coordination Australia, *Proof Committee Hansard*, 19 September 2023, pp. 48-49.

Slots at Sydney airport are clearly a very valuable property right. They're a public good, yet they're allocated by Airport Coordination Australia, which, to my understanding, is majority owned by Qantas and Virgin.⁸⁸

3.79 The Chief Executive of the Australia Airports Association, Mr James Goodwin, submitted that '[i]t's clear that the system is no longer fit for purpose. There is a review by Peter Harris and we'd urge the government to instigate the recommendations of the review asap.' Mr Goodwin added that '[w]e would urge some immediate implementations—some small but effective changes that would improve reliability and the efficiency of the network'.⁸⁹

3.80 In relation to claims of slot hoarding, Dr Tony Webber, Managing Director, Airline Intelligence and Research Pty Ltd, told the committee:

My analysis suggests that at least a part of it is because of commercial reasons. The term they use in the airline business is 'slow flying'. They use that on high-frequency routes such as Sydney to Melbourne, where during the peak times there is a flight every 15 minutes, or there was before COVID. For these really high-frequency routes they can take out a service and shift passengers to adjacent services, and that enables them to manipulate capacity over a short horizon. That, in turn, enables them to manipulate the airfare that they charge or yields.⁹⁰

3.81 Dr Webber agreed that the current 80-20 rule can be used in an anticompetitive way by carriers.⁹¹ He stated that 'while the 80-20 rule exists there will continue to be strategic cancellations to improve profitability'. His view was that shifting from 80-20 to 90-10 should be considered to help support consumer rights.⁹²

3.82 Mr Graham Turner, CEO, Flight Centre Travel Group advocated that the 80-20 rule should be changed to 90 or 95 per cent.⁹³ Mr Dean Long, CEO of the Australian Travel Industry Association, agreed and linked the question of slot management to consumer compensation for domestic flights, saying:

...they are two issues but have the same root cause. If you fix the slot management issue at Sydney airport, you will hopefully reduce the need for consumer compensation in that. The primary issues at the moment are the compliance mechanisms and the 80-20 rule, which isn't effectively operating as 80-20, because, when you take into consideration any cancellations by air services or any other weather delay, you can pretty much see that each slot operates at a 60-40. That's a suboptimal position. So greater enforcement of

⁸⁸ Professor Rod Sims AO, *Proof Committee Hansard*, 27 September 2023, p 47.

⁸⁹ Mr Goodwin, Australian Airports Association, *Proof Committee Hansard*, 27 September 2023, p. 17.

⁹⁰ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, pp. 9-10.

⁹¹ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p. 10.

⁹² Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p. 11.

⁹³ Mr Graham Turner, Flight Centre Travel Group Ltd, *Proof Committee Hansard*, 19 September 2023, p. 23.

slots and moving that to a 90 to 95 arrangement will improve consumer outcomes.⁹⁴

- 3.83 Mr Long suggested that 'we probably don't need to touch the international 80-20 rule', which 'seems to be operating pretty well', but said '[d]omestically, there's no doubt that the 80-20 rule needs to change.'⁹⁵ He submitted that the slot management 'was born in 1944 and hasn't changed'; at that time:

You had aircraft that were completely unreliable and you had navigation systems and airport infrastructures where 80-20 made a lot of sense. We were operating on an average, prior to the pandemic, of 2½ per cent cancellations. The idea that the aviation industry needs an additional 17 per cent above that is unreasonable, so they have to be changed domestically. That would have no impact on our international obligations.⁹⁶

- 3.84 Mr Stephen Byron, CEO Canberra Airport submitted:

I think reforming the slot system urgently is an absolutely critical part of fixing the cancellations now. I also think it's a key part of improving competition in the marketplace for domestic aviation, which will lead to lower airfares for Australians.⁹⁷

- 3.85 Canberra Airport submitted that it 'would also seem that Qantas is not properly using its slots into Sydney Airport from Canberra'.⁹⁸ Its CEO, Mr Byron, elaborated on what he termed 'a misuse of slots':

My view is that Qantas have booked into the schedule more flights than they will ordinarily have, and what that does is take up a huge number of slots. For example, in the afternoon peak, so between 4 pm and 5.55 pm—that's an hour and 55 minutes—they have six flights. Amongst that time they have a flight at 4.40 pm and one at 4.45 pm, five minutes later. They have one at 5.40 pm and one at 5.55 pm, 15 minutes later. It's ridiculous to have flights five minutes apart. To be frank, in terms of a competitive access to Sydney airport, the two big airlines should not be allowed to have flights into Sydney airport from any city more than 30 or 45 minutes apart. They should give up those slots and make them available to a competitor who can use them.⁹⁹

⁹⁴ Mr Dean Long, Australian Travel Industry Association, *Proof Committee Hansard*, 19 September 2023, p. 23. Also see Australian Travel Industry Association, *Submission 1*, pp. 3, 20.

⁹⁵ Mr Dean Long, Australian Travel Industry Association, *Proof Committee Hansard*, 19 September 2023, p. 33.

⁹⁶ Mr Dean Long, Australian Travel Industry Association, *Proof Committee Hansard*, 19 September 2023, p. 33.

⁹⁷ Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard* 22 September 2023, p. 3.

⁹⁸ Canberra Airport, *Submission 64*, p. 3.

⁹⁹ Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard* 22 September 2023, p. 3.

3.86 Regarding the application of the 80-20 rule domestically and internationally, Mr Byron advanced that the rule:

...is ridiculous for domestic flights. The 80-20 rule might be right for international flights, but for domestic flights it should be 95 per cent versus five per cent. If they're not using it five per cent of the time, it's a very poor misuse of critical infrastructure and it's probably a result of anticompetitive behaviour.¹⁰⁰

3.87 Mr Tim Jordan, Chief Executive Officer of Bonza advised that the airline is prepared and willing to increase services into Sydney in 2024. If given the opportunity to do so, Bonza would be able to deliver routes to approximately sixteen new destinations to and from Sydney, with those destinations servicing two million regional Australians. However, Mr Jordan emphasized the challenges of accessing new slots at Sydney Airport:

With access to just four daily morning peak and four daily evening peak slot pairs at Sydney, Bonza could base four aircraft initially in Sydney and consequently make a very significant economic and social impact across many parts of the country. These required slots would represent comfortably less than 10 per cent of the available seasonal slots that are either cancelled on a daily basis or allocated and then unused by incumbents. Or they are ring fenced for regional services but go unused¹⁰¹.

3.88 Sydney Airport highlighted that it 'has been advocating for reform to the slot and demand management schemes since 2017' and submitted:

Fundamentally, the way the current rules are written incentivises incumbent airlines to perpetually over-file and hold too many slots. Slot filing data demonstrates that this has been allowed to go untempered for many years, and unless there's a change to the rules, we do not see a scenario where behaviours will change or competition can increase.¹⁰²

3.89 Sydney Airport's CEO, Mr Culbert, reported that '[w]e're seeing filings [for slots] over 100 per cent of pre-COVID capacity, but we're seeing actual flights taken at only about 90 per cent, so we're seeing 10 per cent of the slots going to waste.' He advanced that this is

...a material productivity drain on the country. We've got Australia's largest infrastructure asset—Sydney airport—not operating at its proper capacity, and it drives significant reliability issues. Ultimately, it's the travelling public who pay as a consequence of delays, cancellations and a lack of certainty.¹⁰³

¹⁰⁰ Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard* 22 September 2023, p. 3.

¹⁰¹ Mr Tim Jordan, Bonza, *Proof Committee Hansard*, 27 September 2023, p. 22.

¹⁰² Sydney Airport, *Submission 2*, p. 2.

¹⁰³ Mr Geoff Culbert, Sydney Airport, *Proof Committee Hansard*, 19 September 2023, p. 38.

3.90 The most recent monitoring report published by the ACCC drew attention to the slot management system at Sydney Airport and observed:

Access to take-off and landing slots during peak times at Sydney Airport is critical for airlines seeking to build an intercity network. The most effective way that the Australian Government could enhance airline competition for the benefit of consumers would be to implement reforms to the way Sydney Airport slots are allocated to airlines.¹⁰⁴

3.91 The Chair of the ACCC, Ms Cass-Gottlieb, advised that the ACCC sees slot reform at Sydney Airport as a priority issue and has engaged with government on the matter.¹⁰⁵ Ms Brakey, ACCC Commissioner, also made a distinction between the domestic and international markets, saying that slot reform 'will have a more direct and more immediate impact on the competitiveness of the domestic market' and '[w]e see the domestic market being less competitive than the international market'.¹⁰⁶ Ms Brakey also advised that the ACCC supports:

Peter Harris's recommendations about having a robust compliance enforcement arrangement around slot management. We think that if you can get better utilisation of slots, and that if any slots which are freed up can promote new entry or expansion of the smaller airlines, that will bring about more competition.¹⁰⁷

3.92 Qantas indicated that it 'broadly supports the recommendations for the Harris Review on the basis they will increase transparency and efficiency and make the Sydney Airport Demand Management Scheme more consistent with the Worldwide Airport Slot Guidelines'.¹⁰⁸ Qantas advised that in relation to Sydney Airport:

Qantas is operating more than 90 per cent of its allocated slots – well above threshold levels administered by the Worldwide Airports Slots Board, of which Sydney Airport is a member. Indeed, 99 per cent of Qantas' slots were returned in the most recently completed season.¹⁰⁹

3.93 Qantas added:

Sydney Airport is not full. Only 75 per cent of its available slots are allocated. In 2023, numerous new entrants have commenced international services into Sydney. In 2021, Rex commenced domestic jet operations out of Sydney, including during peak periods. In both 2023 scheduling seasons Rex was awarded the majority of additional peak slots it sought – 108 additional slots

¹⁰⁴ Australian Competition and Consumer Commission, *Airline competition in Australia: Final Report*, June 2023, p. 28.

¹⁰⁵ Ms Cass-Gottlieb, ACCC, *Proof Committee Hansard*, 22 September 2023, p. 40.

¹⁰⁶ Ms Brakey, ACCC, *Proof Committee Hansard*, 22 September 2023, p. 40.

¹⁰⁷ Ms Brakey, ACCC, *Proof Committee Hansard*, 22 September 2023, p. 44.

¹⁰⁸ Qantas, *Submission 147*, p. 3.

¹⁰⁹ Qantas, *Submission 147*, p. 3.

in total. Bonza did not participate in the seasonal slot process in Summer or Winter 23 and so did not obtain any slots.¹¹⁰

Brisbane Airport demand management

- 3.94 In September 2023 Ms Elizabeth Watson-Brown MP from the Australian Greens announced plans to introduce a bill to federal parliament to introduce flight caps and a curfew on Brisbane Airport to address residents impacted by flight noise. The flight caps would limit the number of arrivals and departures to just 45 per hour, which is less than when Brisbane operated a single runway.¹¹¹
- 3.95 In responding to this proposal Mr Adam Rowe, Chief Commercial Officer, Queensland Airports Ltd stated:

From our point of view, we are aware of the proposal and we are strongly against it. Speaking on behalf of the Longreach-Mount Isa council there are services running into the evening or early morning. Inevitably...there would be a prioritisation from airlines as to what could be run if there were a curfew or a movement cap. A smaller regional service is always going to be de-prioritised compared to a large international or a larger domestic service. In terms of investment certainty, our colleagues at Brisbane Airport, as is well known, have invested significant sums of money in building capacity ahead of demand to ensure they're there to enable growth throughout Queensland and overseas; that includes three of the four airports in our portfolio. Speaking on behalf of Gold Coast, we've done a similar thing; we invested half a billion dollars in the expansion of the airport in order to facilitate growth and facilitate that economic benefit. Changing those settings when there has been certainty for decades creates a level of uncertainty around any future investments, and we would not want to see those conditions arise.¹¹²

Air cabotage arrangements

- 3.96 Cabotage is the right to operate a domestic flight within the borders of a country by an aircraft registered outside that country, ie the right for foreign carriers to operate domestically. In its final report in June 2023 on airline competition in Australia the Australian Competition and Consumer Commission (ACCC) flagged that removing these restrictions could potentially promote competition:

Australia prevents foreign airlines from picking up domestic passengers on a domestic leg of an international flight, which is known as air cabotage. Removing these restrictions could potentially promote competition on some domestic routes.¹¹³

¹¹⁰ Qantas, *Submission 147*, p. 3.

¹¹¹ Ms Elizabeth Watson-Brown MP, 'Greens announce bill to impose curfew on late nights flights from Brisbane Airport', *Media release*, 6 September 2023. Brisbane Airport, 'Greens to axe Existing Qatar Brisbane service & thousands of more flights', *Media release*, 4 September 2023.

¹¹² Mr Adam Rowe, Queensland Airports, *Proof Committee Hansard*, 26 September 2023, p. 75.

¹¹³ ACCC, *Airline competition in Australia*, Final Report, June 2023, p. 30.

- 3.97 Noting that the ACCC has not explored the issue in great depth, Mr David Cranston, Director, Merger Investigations, ACCC, told the committee that the issue is worthy of government consideration:

We can see some appeal to removing the cabotage restrictions. We recognise that the Harper competition review back in 2015 recommended that those restrictions be removed as that could improve competition on domestic routes. But we haven't done in-depth analysis of what particular routes might benefit or the value of those restrictions being removed. We do recognise that there might be some practical challenges to international airlines carrying domestic passengers on their flights. Like I said, it's not something we've explored in detail.¹¹⁴

- 3.98 Professor Rod Sims AO was of the view that air cabotage changes should be considered on either a case by case or route by route basis to promote competition:

Certainly I'm aware that some airlines have the ability to pick up passengers in Sydney and take them to Auckland and other airlines don't. That seems an anomaly. So to me it would be a case-by-case issue. I think we've got to bring competition to our bilateral air service agreements. We've got to bring competition thoughts to those. We've got to do a lot more open-skies agreements, as other countries do. And, given the nature of Australia's geography, cabotage has to play a role on some routes. It absolutely has to. Having empty planes flying sometimes can be justified, but I suspect that on many occasions it cannot. So it has to be on the table, I think.¹¹⁵

- 3.99 Mr Anthony Edmondstone, Chief Executive Officer, Airport Development Group stated:

More narrowly, if I think about Darwin airport and other bits and pieces, we are a subscale high-cost difficult market to serve. The ability for international airlines to carry domestic passengers, in our mind, is suitable for regional Australia and a potential game changer for regional Australia regarding liveability and airfare competition, but it may not necessarily work through Australia as a whole.¹¹⁶

- 3.100 Reform of cabotage arrangements was also supported by Mr Stephen Byron, CEO, Canberra Airport:

I think we would support that because it allows more flights at cheaper airfares for Australian consumers. Cabotage is a process and an availability that helps consumers get lower airfares, and the fact that last time it was mentioned there was such resistance to action on it, with lobbying by Qantas of the federal government and particularly of the then minister, Andrew

¹¹⁴ Mr David Cranston, ACCC, *Proof Committee Hansard*, 22 September 2023, p. 51.

¹¹⁵ Professor Rod Sims AO, *Proof Committee Hansard*, 27 September 2023, pp. 49-50.

¹¹⁶ Mr Anthony Edmondstone, Airport Development Group, *Proof Committee Hansard*, 22 September 2023, p. 15.

Robb, tells you that it must be good for consumers and would allow people to fly on cheaper tickets.¹¹⁷

3.101 It was pointed out that cabotage restrictions significantly undermine and restrict enhanced tourism opportunities across the Kimberley part of Western Australia and that freight opportunities are also being lost.¹¹⁸

3.102 While noting he is not an expert in cabotage, Dr Tony Webber, Managing Director, Airline Intelligence and Research mentioned some possible commercial considerations:

...I think it's difficult for them to do that [an international carrier to offer a domestic service to pick up and set down passengers domestically] because typically they're flying big aircraft over a long range and, when they finally land in Australia, the use of that equipment for a shorter journey comes at too high a unit cost and is not commercially viable. You do see some carriers. I think United's an example. They fly from Los Angeles into Sydney, and then they fly a dead leg from Sydney to Melbourne where they're not picking up passengers or setting them off. They're just flying a leg down to Melbourne. It's not an empty aircraft. They fly down to Melbourne, and then they might fly back to Los Angeles, so they run that short domestic leg. It's very costly for a big aircraft to fly that short sector, just because of the way unit costs are determined in aviation...¹¹⁹

3.103 Mr Jim Parashos, Acting CEO, Melbourne Airport didn't necessarily see cabotage as a solution for greater access to regional airports and explained:

It's [cabotage] been raised in the context of regional airports and greater access. To my knowledge there is not an example around the world where cabotage has actually worked. Again, it does come as part of the bilateral process, where we are giving something up that will not necessarily be reciprocated at the other end. So that does hit a sticking point. If cabotage is being looked at in the context of regional Australia, what I would suggest is in the next two to three years—and we're already seeing in northern Australia that there are smaller aircraft that can fly longer distances, such as the 737 MAX and the A321XLR. That will be good for Cairns. That will be good for the Gold Coast. That will be great for Adelaide because you're filling a smaller aircraft to fly over the longer distances. As Ryan pointed out, it's really the airline economics that come into play for regional access, so I think the next five to 10 years is really exciting for regional ports in Australia with the new aircraft technology that's being brought into the market. I don't see cabotage as a solution.¹²⁰

3.104 Ms Vanessa Hudson, CEO and Managing Director, Qantas Group did not support changes to cabotage arrangements:

¹¹⁷ Mr Stephen Byron, Canberra Airport, *Proof Committee Hansard*, 22 September 2023, p. 9.

¹¹⁸ *Proof Committee Hansard*, 22 September 2023, p. 9.

¹¹⁹ Dr Tony Webber, *Proof Committee Hansard*, 19 September 2023, p. 14.

¹²⁰ Mr Jim Parashos, Melbourne Airport, *Proof Committee Hansard*, 26 September 2023, p. 40.

No, we don't support cabotage. We have maintained this position, as have many others who have appeared before this Senate committee. And, if we look around other markets that have large domestic aviation markets, like Canada, the US and China, none of those markets support cabotage either. We think it could distort the market. We think that that would result in importing foreign labour rates into the domestic market. We think that there are significant implications to consider, including impacting route dynamics, impacting job losses, impacting growth and compromising investment, and we don't think that that is in the best interest of a healthy Australian aviation market.¹²¹

Regional security screening

3.105 Queensland Airports Limited submitted that:

Australia is a vast country with great distances between its urban centres, necessitating the need for reliable and affordable air travel - both for passengers and freight - particularly given the lack of viable transport alternatives such as high-speed rail.¹²²

3.106 Queensland Airports Limited also noted that '[i]ncreased aviation capacity to any region has a profound effect on local economies, with tourism dollars stimulating economic activity broadly across many sectors.'¹²³ It said that it 'will continue to work closely with its partners – the State Government, City Councils and peak tourism bodies to continue to encourage the introduction of new international connections'.¹²⁴

3.107 Broome International Airport highlighted that it is seeking an increase in international services to and from Broome.¹²⁵

3.108 The Regional Aviation Association of Australia (RAAA) raised the issue of enhanced regional security screening calling on support to 'maintain enhanced security screening requirement at regional airports'. The RAAA believes:

the implementation of enhanced screening requirements at regional airports has created a financial and personnel burden that some smaller airports are struggling to maintain. Whilst we welcomed the tiered system to alleviate this burden on some regional airports, there are still a large number that fall within the requirements.¹²⁶

¹²¹ Ms Vanessa Hudson, CEO and Managing Director, Qantas Group, *Proof Committee Hansard*, 27 September 2023, p. 79.

¹²² Queensland Airports Limited, *Submission 11*, [p. 1].

¹²³ Queensland Airports Limited, *Submission 11*, [p. 1].

¹²⁴ Queensland Airports Limited, *Submission 11*, [p. 2].

¹²⁵ Broome International Airport, *Submission 16*, [pp. 1–2, 4].

¹²⁶ Regional Aviation Association of Australia, *Submission 145*, p. 1.

3.109 The RAAA emphasised that:

Suitable assessment of set up and ongoing costs of these screening systems was non-existent when introduced and now, with funding disappearing, small airports will struggle to be able to afford these systems. It was left to the Department of Infrastructure, Transport and Regional Development to do the cost analysis of screening regulations that were implemented by Home Affairs, that is a farcical situation that highlights the mess we are in today.¹²⁷

3.110 The RAAA saw two options: the government to continue to fund screening systems at regional airports; or apply a national levy on all domestic air tickets to pay for the national security system. The RAAA argued:

At the end of the day all air travellers benefit from screening at regional ports as those passengers could likely end up on a connecting domestic service. The costs though to be screened regionally is upwards of \$20-40 per passenger, whereas in the capital cities, as low as a few cents per passenger.¹²⁸

¹²⁷ Regional Aviation Association of Australia, *Submission 145*, p. 1.

¹²⁸ Regional Aviation Association of Australia, *Submission 145*, p. 1.

Chapter 4

Committee view

- 4.1 The impetus for this inquiry was the government's recent decision to refuse to increase flight capacity for Qatar Airways, the impacts on cost of airfares and choice of services as a result, and the failure of the relevant minister to explain the reasons for the decision, which warranted close scrutiny. In just the short period set by the Senate for this inquiry, the committee received substantial evidence focussing on that decision as well as broader challenges for Australia's aviation industry, especially in relation to the affordability and reliability of air services in Australia.
- 4.2 This evidence reflects the many questions raised by the government's recent decision, as well as the need for immediate action and reform to Australia's aviation industry in general.
- 4.3 It is important to emphasise the significance of these matters. Our aviation sector connects Australians with each other and the world. It contributes to tourism and trade, facilitates investment and jobs, and is relied upon by countless regional communities.
- 4.4 The committee considers that many of the reforms needed in Australia's aviation sector cannot wait until the Government's White Paper is published and recommendations adopted. The department's website says the White Paper is to be published in mid-2024 but the committee is concerned that release of the White Paper, like the recent Green Paper, may be delayed and reforms arising from the process may not be implemented until after the next election.¹ While continuing to pursue those processes, the government should take swift action on key matters examined in this report.
- 4.5 This chapter provides the committee's comments and recommendations on key issues raised in this inquiry as follows:
- Australia's approach to negotiating air service agreements.
 - the recent Qatar decision.
 - the government's decision making process on the Qatar decision.
 - Australia's aviation industry more broadly, comprising:
 - Competition in the aviation industry.
 - Frequent flyers.
 - Consumer protections.

¹ Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA), 'Aviation White Paper', *webpage*, undated, <https://www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/aviation-white-paper> (accessed 27 September 2023).

- Management of airport slots at Sydney Airport.
 - Current staffing issues for air traffic controllers.
 - Air cabotage arrangements.
 - Security screening at regional airports.
- The need for an extended inquiry to hear from key witnesses to uncover specific and critical details pertaining to the Qatar Airways decision.

Australia's approach to negotiating air service agreements

- 4.6 A range of inquiry participants emphasised that Australia should ensure our bilateral air service agreements provide capacity ahead of demand and should seek to liberalise its air service agreements, including open skies agreements where appropriate. This approach would support affordable and reliable services where there is demand for them. It would encourage competition and choice of destination, help to place downward pressure on airfares, and support the industry to make long term plans with confidence.
- 4.7 The recent Aviation Green Paper, *Towards 2050*, seems broadly consistent with this approach; it says the Australian Government 'proposes to continue the current "Capacity ahead of Demand" approach, and negotiate "Open Skies" style agreements where it is in the national interest and can be bilaterally agreed'. However, in apparent tension with calls for a more liberal approach, the Green Paper also says the 'current approach to bilateral air services negotiations appears well adapted to continue to seek benefits in the national interest...'²
- 4.8 The committee is of the view that Australia should have regard to the interests of the Australian public, economy and security when negotiating bilateral air service agreements, rather than place too much emphasis on reciprocity from the other country in the negotiation.³
- 4.9 The committee understands that Australia has just seven open skies agreements. It is concerned that Australia is falling behind other states such as Canada, which has 23 such agreements,⁴ Singapore with over 60, and the United States with 130.⁵
- 4.10 The committee supports efforts to provide more open skies agreements and, at a minimum, ensure that Australia's air service agreements provide capacity well

² Australian Government, *Aviation Green Paper: Towards 2050*, 7 September 2023, p. 186.

³ For example of some discussion on this matter, see Professor Rico Merkert, Professor of Transport and Supply Chain Management, and Deputy Director, Institute of Transport and Logistics Studies, University of Sydney Business School, *Proof Committee Hansard*, 19 September 2023, p. 65; Professor Rod Sims AO, private capacity, *Proof Committee Hansard*, 27 September 2023, p. 47.

⁴ Australian Travel Industry Association, *Submission 1*, p. 13.

⁵ Sydney Airport, *Submission 2*, p. 2.

in advance of demand, so that the aviation industry can confidently prepare to deliver services in alignment with demand.

The recent Qatar decision

4.11 The Aviation White Paper of 2009 includes the following statement of government policy:

The Government will continue to pursue liberalisation of the international aviation market, including 'open skies' style agreements, where these are assessed to be in the national interest.

In all cases the Australian Government will seek to ensure capacity available under our bilateral agreements remains ahead of demand so that airlines are free to make commercial decisions about the frequency and types of services they operate. Such an approach provides airlines with the regulatory certainty to enable them to commit to long-term growth plans in the Australian market.⁶

4.12 In addition, consistent with successive government policy, in the recent Green Paper the Australian Government 'proposes to continue the current "Capacity ahead of Demand" approach, and negotiate "Open Skies" style agreements where it is in the national interest and can be bilaterally agreed'.⁷

4.13 In this light, the recent Qatar decision is perplexing and seemingly inconsistent with the direction canvassed in the Green Paper.

4.14 Given the lack of clarity from the Minister for Infrastructure, Transport, Regional Development and Local Government as to the reasons for declining Qatar's request, as well as directions from the minister's office to departmental officials not to answer key questions during the committee's hearing on 28 September 2023,⁸ it is unclear whether the policy aim of capacity ahead of demand was considered at all.

4.15 The committee heard that all available routes under Australia's agreement with Qatar are being used to capacity, but Qatar Airways is prepared to provide additional services if the agreement were amended. It seems that demand is exceeding capacity, exacerbating the price of airfares, and urgent action should be taken to remedy this air service agreement. Qatar Airways advised the committee that it planned to commence the extra flights from 1 April 2023, but

⁶ Australian Government, *National Aviation Policy White Paper: Flight Path to the Future*, December 2009, p. 41.

⁷ Australian Government, *Aviation Green Paper: Towards 2050*, 7 September 2023, p. 186.

⁸ Ms Marisa Purvis-Smith, Deputy Secretary, Transport Group, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 35.

was forced to reallocate aircraft to other routes when no advice was provided by Australian Government officials regarding progress of their application.⁹

- 4.16 The committee welcomes increased competition in the aviation industry to create a more affordable aviation sector for travellers, and agrees with the views of witnesses that allowing more Qatar Airways flights into Australia would have placed downward pressure on airfares.
- 4.17 In the committee's view, the Minister for Infrastructure, Transport, Regional Development and Local Government has not provided a persuasive reason for the government's decision.
- 4.18 The minister has said the decision was based on the national interest.¹⁰ But to the committee's knowledge, the minister has not clearly articulated the factors that informed her assessment of the national interest, nor set out how they were applied in this case. Moreover, a wide range of witnesses, including key stakeholders in Australian aviation, submitted that they did not fully understand the basis for the decision. Witnesses also conveyed the benefits that would apply if stakeholders were better informed about the decision, including the ability to make informed representations to government.
- 4.19 Officials confirmed that the brief provided in January 2023 to the Minister for Infrastructure, Transport, Regional Development and Local Government concerned a 'negotiating mandate' for consultations with Qatar. It has not been confirmed what the department specifically recommended in that brief, because the minister has made a claim of public interest immunity. However, the weight of evidence in this inquiry suggests to the committee that this brief recommended entering further negotiations with Qatari authorities on their application. This includes evidence from the CEO of Virgin Australia indicating that in January 2023 she understood that an increase in capacity was likely.
- 4.20 Nonetheless, the minister decided in July 2023 not to conduct any further negotiations. The committee is of the view that given the minister ultimately refused to enter into negotiations, it appears she rejected her department's advice.
- 4.21 The weight of evidence before the committee indicates the national interest would have been well served by agreeing to Qatar's request. The committee heard estimates that the decision resulted in a loss to the Australian economy of up to \$1 billion. The decision was also a missed opportunity to support activity in tourism and to support trade, particularly agricultural exports that use passenger planes for high value freight. The committee was particularly

⁹ Mr Fathi Atti, Senior Vice President Aeropolitical and Corporate Affairs, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, p. 13.

¹⁰ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *House of Representatives Hansard*, 5 September 2023, pp. 36–37.

concerned by evidence from farming organisations about the challenges industry faces exporting chilled meat without enough passenger flights to provide reliable, efficient and competitive freight opportunities to key markets. In addition, agreeing to Qatar's request could have provided welcome relief for Australians facing high airfares—especially in the context of cost of living pressures.

4.22 Importantly, no evidence was provided that national security considerations were points of concern or factors in the minister's decision. It was revealed in evidence to the committee that the Department of Infrastructure, Transport, Regional Development, Communications and the Arts did not consult any other Australian Government agency on the Qatar Airways application, only Qantas and Virgin airlines.

4.23 The committee expresses its deep concern at the appalling and unacceptable incident that occurred at Hamad International Airport in October 2020. The committee heard evidence that Qatari officials prosecuted those responsible and the Qatari Government has apologised. Department of Foreign Affairs and Trade officials advised 'we have not put forward any recommendations in our travel advice in relation to Hamad International Airport' regarding ongoing concerns or warnings. Further, the department advised:

...we've tasked our officials, including our ambassador to Doha, to continue to engage with the Qatari authorities in support of the requests made by the women; that has been done on numerous occasions. The government of Qatar has given assurances to all travellers that such an incident will not occur. As the minister said, the Australian government is aware that some complainants have initiated legal proceedings following that appalling incident; it wouldn't be appropriate for us to go into that. The Qatari government put together a task force, and that task force has put together recommendations. They also put on trial the police captain involved in that terrible incident, and he was convicted and sentenced. My understanding is remedial actions were taken by the Qatari government and they have apologised, including at the prime ministerial level. They've repeatedly assured us that this is something that was an appalling and horrific incident, and that it won't happen again.¹¹

4.24 The committee commends Qatar Airways for the service it provided to Australia during the COVID-19 pandemic in repatriating stranded Australians, freighting medical supplies and shipping Australian export product abroad. It also acknowledges the support of Qatar Airways in facilitating transportation during the political and humanitarian crisis in Afghanistan in 2021.¹²

¹¹ Mr Ridwaan Jadwat, First Assistant Secretary, Middle East and Africa Division, Department of Foreign Affairs and Trade, *Proof Committee Hansard*, 28 September 2023, p. 29.

¹² See Qatar Airways, *Submission 71*, pp. 5–6.

- 4.25 The committee appreciates that bilateral air service agreements should be considered on a case-by-case basis, and requests for more liberal arrangements should be assessed for their benefits to the Australian economy and public, not be granted automatically. However, the committee considers that the Qatar Airways decision lacks merit and agrees with inquiry participants who urged the government to review it immediately. It has been confirmed by the department that a review of the decision by government is allowed for at any time.¹³
- 4.26 Qatar Airways expressed its desire for the minister's decision to be reviewed and approval for additional flights to be granted, which would enable the airline 'to operate before Christmas. We hope that we manage to do that.' When asked if it was still possible to deliver additional services to Australia if a review was undertaken and a quick decision was made, Qatar Airways stated: 'Yes, we hope so.'¹⁴

Recommendation 1

- 4.27 The committee recommends that the Australian Government immediately review its decision not to increase capacity under Australia's bilateral air services agreement with Qatar.**

The decision making process

- 4.28 Inquiry participants highlighted a range of relevant considerations that could apply to decisions about air service agreements. Foremost among these are economic costs and benefits, as well as how the agreement will affect competition in the aviation industry, tourism, trade industries, foreign policy, and Australia's regions.
- 4.29 The committee is disappointed that the government has not clearly articulated how these factors were weighed in its decision.
- 4.30 As outlined in chapter 2, the Senate ordered several ministers to produce documents that could have helped explain the reasoning for the government's decision. In response, the Minister for Infrastructure, Transport, Regional Development and Local Government and the Minister for Foreign Affairs made claims of public interest immunity.
- 4.31 The committee does not accept the reasoning in these claims and considers the government is obstructing much needed transparency about its decision making. It remains unclear to the committee the extent to which the Minister for Infrastructure, Transport, Regional Development and Local Government

¹³ See Mr Jim Wolfe, Assistant Secretary, International Aviation, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 42

¹⁴ Mr Atti, Qatar Airways, *Proof Committee Hansard*, 27 September 2023, p. 8.

consulted any ministerial colleagues—except for some level of discussion with the Minister for Foreign Affairs in January 2023¹⁵—prior to making her decision on the Qatari request.

- 4.32 The withholding of the ordered documents diminished the committee's ability to scrutinise the government's decision making process and reasoning on Qatar's request. It also meant that officials appearing at the committee's hearing declined to answer questions relating to the documents, which included a departmental brief provided to the Minister for Infrastructure, Transport, Regional Development and Local Government on 9 January 2023 about Australia's approach to upcoming air service agreement negotiations, including with Qatar.¹⁶
- 4.33 The committee also holds serious concerns about the government's refusal to provide the contents of Qantas' submission to DITRDCA about Qatar's request. While the committee received a redacted version of this submission, it was provided by Qantas in confidence, not the government publicly.
- 4.34 In addition, the committee notes the late submission of responses to questions taken on notice at the committee's hearing from all the departments which attended. These were the Department of Infrastructure, Transport, Regional Development, Communications and the Arts; the Department of the Prime Minister and Cabinet; the Treasury; and the Department of Foreign Affairs and Trade. This has adversely affected the ability of the committee to consider their evidence when producing this report within the short timeframe set by the Senate for this inquiry.
- 4.35 The committee sees merit in a proposal from the Productivity Commission that the government use transparent cost–benefit analysis for decisions relating to air service agreements. These analyses would be published and articulate how the government has assessed the range of interests that apply to the decision. The committee considers that this approach would support rigour in decision making and improve stakeholders' confidence in the process. In addition, given the critical importance of competition in the aviation sector, the committee sees a greater role for the Australian Competition and Consumer Commission (ACCC) to provide advice to government on decisions about air service agreements.
- 4.36 Regarding consultation, the committee is concerned that the process followed by the government appears inadequate. The department consulted a group of 57 stakeholders to inform priorities on the government's negotiating program, but when it came to the specific request from Qatar, only Qantas and Virgin

¹⁵ See Mr Jadwat, Department of Foreign Affairs and Trade, *Proof Committee Hansard*, 28 September 2023, p.

¹⁶ For example, see *Proof Committee Hansard*, 28 September 2023, pp. 7–8, 9, 26–27.

were consulted. Considering the economic implications of the government's approach to those negotiations with Qatar, the committee considers that the government should have consulted more widely.

- 4.37 The committee agrees that consideration of bilateral air services agreement applications should involve consultation with key stakeholders including the Department of Foreign Affairs and Trade, the Treasury and the ACCC. Considering the evidence of economic benefits provided by a wide range of industry stakeholders, the committee is of the view this consultation should have occurred for the Qatar Airways' request.
- 4.38 More generally, the committee is of the view that major decisions – such as those relating to bilateral air service agreements – should be publicly explained. This would be in the interests of transparency and enable key stakeholders to understand decisions and be better informed in their long term planning.
- 4.39 The following recommendations are important for negotiations on all air service agreements, including processes that are currently underway with Vietnam and Türkiye.

Recommendation 2

- 4.40 The committee recommends that when making decisions relating to bilateral air service agreements, the Australian Government have regard to a cost benefit analysis, consult widely with key stakeholders including the Australian Competition and Consumer Commission, and publish a statement of reasons for decisions taken.**

Australia's aviation industry

- 4.41 The government published its Aviation Green Paper, *Towards 2050*, on 7 September 2023. Throughout the committee's hearings, various witnesses indicated they would provide submissions to that process to inform a subsequent White Paper. The committee is pleased that this process is underway and looks forward to meaningful reforms in the future.
- 4.42 However, this inquiry has highlighted a range of pressing issues that should be dealt with sooner than the Green and White Paper process can facilitate. These issues are not limited to bilateral air service agreements and relate to the aviation industry more broadly. The committee presents its views on key matters below and urges the government to respond to these concerns with the urgency that they merit.

Competition in the aviation industry

- 4.43 The weight of evidence in this inquiry indicated that there is not enough competition in Australia's domestic aviation industry, and this diminishes outcomes for Australians. As the ACCC said in its recent report on airline competition in Australia:

The duopoly market structure of the domestic airline industry has made it one of the most highly concentrated industries in Australia, other than natural monopolies. The lack of effective competition over the last decade has resulted in underwhelming outcomes for consumers in terms of airfares, reliability of services and customer service.¹⁷

- 4.44 The implications of the present duopoly are numerous. To take one example, the committee was concerned by evidence about the rate of cancellations by Qantas on certain routes, which it seems cannot be explained by poor weather or air traffic control issues. Rather, it seems these cancellations are possible because there is inadequate competition to drive more reliable services. These cancellations can cause major disruption for travellers who are already paying high prices for airfares—which is another symptom of the limited competition in aviation.
- 4.45 The committee recognises that the effective duopoly in Australia's domestic aviation market requires close consideration and careful reform. Some of the recommendations made in this report will assist, including in relation to air service agreements and airport slot management. However, the committee is of the view that further action is also necessary.
- 4.46 The government recently established a Competition Taskforce in Treasury to review competition laws, policies and institutions.¹⁸ Professor Rod Sims AO, who is part of an expert panel informing the taskforce, confirmed that the taskforce will provide information into the upcoming White Paper on aviation.¹⁹
- 4.47 In the committee's view, measures that would improve competition in the domestic aviation market should be a key focus of the Competition Taskforce, and inform any recommendations to the Treasurer and government from that process, in addition to feeding into the White Paper process. The Competition Taskforce is a valuable opportunity to enact meaningful reform to the status quo. Particular consideration should be given to divestiture powers as a remedy for any misuse of market power. Evidence to the committee about concentration in the Australian aviation market, including the fact that Qantas and Jetstar share the same ownership structure, raise concerns that should be addressed.

¹⁷ Australian Competition and Consumer Commission (ACCC), *Airline competition in Australia: Final report*, June 2023, p. 2.

¹⁸ The Hon Dr Jim Chalmers MP, Treasurer, and the Hon Andrew Leigh MP, Assistant Minister for Competition, Charities and Treasury, Assistant Minister for Employment, 'A more dynamic and competitive economy', *Joint media release*, 23 August 2023, <https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/more-dynamic-and-competitive-economy> (accessed 3 October 2023).

¹⁹ Professor Sims, private capacity, *Proof Committee Hansard*, 27 September 2023, pp. 47–48.

Recommendation 3

- 4.48 **The committee recommends that the Australian Government review reform options to strengthen competition in the domestic aviation industry, including potential divestiture powers to remedy any misuse of market power.**
- 4.49 As an immediate step, the committee is firmly of the view that the ACCC should continue monitoring airline competition in Australia and publishing regular reports, as it has done for the past three years. The committee is concerned that the reports were allowed to conclude. These reports provide valuable information for aviation stakeholders, which can be used to inform potential changes. The reports also provide timely insights and policy proposals to government on the state of competition in the aviation sector, which the committee considers to be of high importance amidst present cost of living pressures.
- 4.50 On 12 September 2023 Senators Dean Smith and Bridget McKenzie introduced a bill that would largely replicate the previous direction and require the ACCC to report on its monitoring at least once every quarter.²⁰ The committee supports this bill and recommends its urgent passage to ensure that the state of competition continues to be monitored.

Recommendation 4

- 4.51 **The committee recommends that in order to reinstate monitoring of the airline industry by the Australian Competition and Consumer Commission, the Senate urgently pass the Competition and Consumer Amendment (Continuing ACCC Monitoring of Domestic Airline Competition) Bill 2023.**
- 4.52 As well as this broad monitoring of competition in aviation, the committee would support a specific investigation by the ACCC into Qantas' actions in the aviation market. The committee is concerned by evidence suggesting Qantas may be especially aggressive when seeking to maintain its market share. This muscular approach towards competitors and new entrants can compound the problems that are already caused by a lack of competition.
- 4.53 The committee agrees that the Qantas group have significant steps to take to repair trust with Australian consumers. The committee expects tangible improvements regarding their behaviour toward their customers.

²⁰ Explanatory memorandum, Competition and Consumer Amendment (Continuing ACCC Monitoring of Domestic Airline Competition) Bill 2023, [p. 2].

Recommendation 5

4.54 The committee recommends that the Australian Government direct the Australian Competition and Consumer Committee to conduct an inquiry into potential anti-competitive behaviour in the domestic aviation market.

Frequent flyers

4.55 The committee heard serious concerns about the state of consumer protections in aviation. This includes over 100 individuals who raised concerns about their experience with the Qantas frequent flyer program, especially the (lack of) value of their points. Other issues have also been well-publicised, such as trouble for consumers accessing flight credits or recent court action initiated by the ACCC against Qantas for allegedly advertising flights that it had already cancelled.

4.56 The committee recognises that airline flight credits do not always provide value for money and can lead to additional out of pocket expenses from consumers at the time of redemption.

4.57 As a result of the committee raising the issue, Qantas expressed a willingness to engage with submitters who expressed concerns about their experience with Qantas' frequent flyer program, and work to resolve their concerns. In order to protect those submitters' privacy, the committee did not provide their contact information to Qantas. Instead, the committee sought appropriate contact details from Qantas and provided them to the submitters so that they may contact Qantas if they wish. The committee considers it incumbent on Qantas to work constructively with these submitters to arrive at a satisfactory outcome. Further, the Australian Competition and Consumer Commission ought to monitor these processes carefully to ensure consumer rights are protected.

Consumer protections

4.58 Regarding consumer protections more broadly, an industry based-scheme, the Aviation Consumer Advocate, is already in place. However, on the evidence before it, the committee agrees with the ACCC's assessment that the Aviation Consumer Advocate is 'generally ineffective'.

4.59 Australians expect an aviation industry that is reliable, safe and affordable. Consumers should be able to rely on their flight to take off and land on time, their bag to arrive at their destination with them and to feel safe when travelling.

4.60 Australians count on reliable air services to see friends and family, conduct business, travel, and attend medical appointments. It is vitally important that effective protections are available to them when things go wrong.

4.61 Of course, it would be preferable if these protections did not need to be called upon. However, evidence in this inquiry highlights genuine and current concerns for consumers. Indeed, some inquiry participants suggested that making improvements elsewhere—such as in domestic competition and slot management at Sydney airport—could improve outcomes for consumers. The

committee is also optimistic about this, but considers that improved consumer protections have a key role to play.

- 4.62 The committee is drawn to schemes that exist in North America and Europe which provide compensation for consumers whose flights are significantly delayed or cancelled. Not only would this provide some remedy for consumers, it would also more strongly incentivise airlines to avoid such problems in the first place. The proposal seems particularly apt for Australia's domestic market, where competition is lower compared to the international market.
- 4.63 The committee also sees potential in a new independent ombudsman to provide support for consumers, investigate complaints, and be empowered to make binding decisions similar to ombudsmen in other industries.
- 4.64 In the committee's view, the ACCC should be closely engaged in progressing consumer protection reforms. Its Chair, Ms Gina Cass-Gottlieb, highlighted several areas for potential reform, including consumer guarantees, unfair trading practices, and an external independent ombudsman.²¹ These matters should be pursued with urgency to ensure that the benefits are enjoyed by consumers as soon as reasonably practicable. This process should not be delayed by the White Paper process.

Recommendation 6

- 4.65 The committee recommends that the Australian Government develop and implement consumer protection reforms as soon as reasonably practicable to address significant delays, cancellations, lost baggage and devaluation of loyalty programs.**

Management of airport slots

- 4.66 The committee is concerned by evidence regarding airport slot management, including allegations of slot hoarding, especially at Sydney Airport.
- 4.67 A small number of airlines are taking up most of the slots at Sydney Airport, which comes at the expense of other competitors and new entrants. This drives down competition, which in turn has a negative effect for the consumer and ultimately the economy. Considering the vital role of Sydney Airport in Australia's aviation networks, it is imperative that a diverse range of airlines can access slots in a fair and appropriate way.
- 4.68 The committee is not satisfied that current arrangements for airport slot management are working well. Existing processes do not align with the Worldwide Airport Slot Guidelines. There also appear to be inefficiencies in current arrangements, such as the way in which the cap on flights per hour is applied.

²¹ Ms Gina Cass-Gottlieb, ACCC, *Committee Hansard*, 22 September 2023, pp. 41–42; also see p. 49.

4.69 The committee was repeatedly advised by inquiry participants that valuable work on airport slot management was completed in the 2021 *Review of the Sydney Airport Demand Management Scheme* by Mr Peter Harris AO. As discussed in Chapter 3, considerable work was undertaken by the department over the period between handing down of Mr Harris' recommendations in February 2021 and February 2022, including 25 technical working group meetings involving a wide range of Sydney Airport stakeholders, including airlines, the slot manager, government agencies, community and local government representatives, to provide advice on specific proposals to give effect to the recommendations of the review of the Sydney Airport Demand Management Scheme.²² Regarding that review, the Minister for Infrastructure, Transport, Regional Development and Local Government said on 7 September 2023:

The Government is considering the recommendations from the Review of the Sydney Airport Demand Management Scheme, an independent review prepared by Mr. Peter Harris AO. We have recently concluded targeted consultation regarding potential changes to the Scheme, with a particular eye to modernising the slot allocation framework and strengthening compliance measures to ensure that slots are not being misused by airlines. I will have more announcements to make about these reforms in due course.²³

4.70 The committee considers that action to implement the Harris Review recommendations is urgently needed and certainly cannot wait for the conclusion of the Green Paper and White Paper processes. Improving airport slot management at Sydney Airport is a key part of improving competition in Australia's aviation industry, which will in turn have benefits for consumers and the economy more broadly. Given the urgency of the matter, the committee is concerned about the minister's inaction on the review's recommendations.

Recommendation 7

4.71 The committee recommends that the Australian Government urgently respond to the *Review of the Sydney Airport Demand Management Scheme* including the Mr Peter Harris AO recommendations to improve airport slot management and strengthen the 'use it or lose it' rule.

²² See Ms Stephanie Werner, First Assistant Secretary, Domestic Aviation and Reform, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 32; document 17 tabled by the department at the 28 September 2023 public hearing.

²³ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, 'Aviation Green Paper open for feedback', *Media Release*, 7 September 2023, <https://minister.infrastructure.gov.au/c-king/media-release/aviation-green-paper-open-feedback> (accessed 25 September 2023).

- 4.72 The committee also heard concerns regarding a proposal to legislate a demand management scheme for Brisbane Airport, including imposition of a curfew and cap aircraft movements to 45 per hour.
- 4.73 Evidence presented to the committee indicated that such arrangements could disadvantage regional airports and access to aviation services across regional Queensland as a capacity constrained Brisbane Airport would provide preference to larger international and capital city flights. The committee shares these concerns and would not support legislation to implement a demand management scheme for Brisbane Airport.

Current staffing issues for air traffic controllers

- 4.74 The committee is aware that the current shortage of air traffic controllers has contributed, among other factors, to cancellations and delays at airports in Sydney, Melbourne, Brisbane and Perth. It is positive that in order to address this, Airservices Australia has opened its training pipeline and will have an additional 72 air traffic controllers in the system by the end of the year. The committee remains concerned about the effects being experienced by the travelling public.

Air cabotage arrangements

- 4.75 The committee notes that the ACCC flagged in its final report on airline competition in Australia that removing cabotage restrictions could potentially promote competition. The committee agrees with the suggestion put forward by Professor Rod Sims that changes could be considered on either a case by case or route by route basis, subject to commercial considerations by the airlines.

Recommendation 8

- 4.76 The committee recommends that the Australian Government consider introducing limited cabotage for foreign airlines to regional airports.**

Security screening at regional airports

- 4.77 The committee appreciates the importance of regional airports to Australia's aviation networks. Without these airports and their associated services, the many benefits of aviation would not extend to regional Australia.
- 4.78 It is therefore critical to ensure that these airports are appropriately supported. The committee was concerned by evidence suggesting that regional airports can struggle to meet the financial and personnel burden imposed by enhanced security requirements. This is largely because they lack the economies of scale that benefit larger airports. Recognising that the security requirements are important, the committee considers that the government should consider further support for regional airports.

Extended inquiry to hear from key witnesses

- 4.79 The Senate set less than five weeks for the committee to conduct this inquiry. In that time the committee received a wealth of evidence and made the above recommendations to improve air service agreements and aviation in this country. However, that short timeframe did not allow the committee to gather all the evidence it was seeking.
- 4.80 It transpired that during the short window of the inquiry, key witnesses were overseas and unavailable to provide evidence. This includes the former Chief Executive Officer of Qantas, Mr Alan Joyce AC, who led Qantas at the time of Qatar's request and the government's decision to refuse it. A key matter for the committee has been to examine the extent of any influence exerted by Qantas and/or Mr Joyce over the government's decisions in aviation policy, including the decision to decline the Qatari request and the decision to end ACCC monitoring of domestic airlines. The committee has also been examining broader issues in Australia's aviation industry, and Mr Joyce played a key role in that industry over recent years. Despite lengthy questioning of the Qantas Chair and new Chief Executive Officer, there were questions unable to be satisfactorily answered for which the evidence suggests Mr Joyce will likely hold the answers. In addition, Qantas officials were unable to answer questions regarding the extent and content of lobbying of ministers, ministerial offices and departments by its government affairs staff.
- 4.81 In addition, Qantas officials present were unable to answer questions regarding the extent and content of lobbying of ministers, ministerial offices and departments by its government affairs staff. Qantas chose to appear before the inquiry without any member of their extensive government affairs division available to answer the committee's questions. As a result, Qantas representatives took specific questions about the company's lobbying activities on notice and responded to specific questions with generalities. If the committee is to understand the role that lobbying and private discussions played in the Government's decision it will be necessary to hear from these government affairs representatives of Qantas.
- 4.82 The committee considers that its deliberations would benefit greatly from evidence that certain key witnesses could provide.
- 4.83 For procedural reasons that apply in this particular circumstance, it is not practicable for the committee's inquiry to be extended.
- 4.84 In order to allow an opportunity for the committee to receive evidence from key witnesses, the committee is of the view that the Senate should re-establish the select committee to receive that evidence. The committee could then provide the Senate with any updated conclusions by way of a final report.

Recommendation 9

4.85 The committee recommends that the Senate adopt the following resolution:

That—

(a) the Select Committee on Commonwealth Bilateral Air Service Agreements, appointed by resolution of the Senate on 5 September 2023, as amended on 7 September 2023, be reappointed on the same terms, except as otherwise provided by this resolution, so that the committee may:

(i) receive evidence at a public hearing from:

(1) witnesses who were unavailable prior to the committee's original reporting date, including Mr Alan Joyce AC;

(2) government affairs representatives from Qantas, noting that Qantas' answers to questions on notice from senators were unsatisfactory,

(ii) report on any matters arising relevant to the committee's terms of reference; and

(b) the committee or any subcommittee have the power to consider and make use of the evidence and records of the select committee appointed on 5 September 2023;

(c) senators who were members or participating members of the previous select committee are appointed to the new committee; and

(d) the committee report by 29 November 2023.

4.86 In addition, the committee sought clarity from the Department of Infrastructure, Transport, Regional Development, Communications and the Arts on engagements and discussions the minister had held between January 2023 and July 2023 that may have influenced her decision on the Qatar Airways application. This included a meeting between the minister and Mr Alan Joyce on or around 23 January 2023. Having sought advice from the minister's office, department officials advised that 'any requests in relation to outcomes that the minister had will need to be directed to the minister directly'.²⁴ Under further questioning on the nature of that response, department officials read a text message received during the hearing after seeking advice from the minister's office:

The text message I received is: 'MO view is it is not for the department to answer re the minister's diary. The question should be directed to the minister.'²⁵

²⁴ Ms Purvis-Smith, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 34.

²⁵ Ms Purvis-Smith, DITRDCA, *Proof Committee Hansard*, 28 September 2023, p. 35.

- 4.87 In consideration of this evidence, on 28 September 2023 the committee invited the Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Catherine King MP, to give evidence to the committee at a public hearing. Given the ambiguity about the reasons for the Government's decision to decline Qatar's request, the committee considers it vital that it receive evidence from her directly.
- 4.88 At the time of drafting this report, the committee is yet to receive a response from the minister to the invitation. This is despite media reporting that the minister has said she will not attend. On 3 October 2023 it was reported that the minister said '[i]t is long-standing practice that House of Representatives members do not appear before Senate committees.'²⁶
- 4.89 It was also reported that the Prime Minister, the Hon Anthony Albanese MP, said on 3 October 2023 that 'no House of Representatives member has ever appeared before a senate inquiry'. He also reportedly said that '[m]inisters do not appear. No ministers in the former government did. Everyone knows that who follows the [S]enate'.²⁷
- 4.90 However, there is precedent for a minister from the House of Representatives to give evidence at a public hearing of a Senate committee. On 31 January 2014, the Hon Scott Morrison MP, then Minister for Immigration and Border Protection, voluntarily gave evidence at a public hearing of the Legal and Constitutional References Committee for its inquiry into a claim of public interest immunity raised over documents. The Hon Ross Free MP, then Minister for Science and Technology in the Keating Government also attended a Senate committee hearing in 1992.²⁸
- 4.91 To facilitate the attendance of the Minister for Infrastructure, Transport, Regional Development and Local Government at a public hearing of a

²⁶ For example, see Stephanie Borys, Evelyn Manfield and Jake Evans, "'Time wasting': Transport minister rebuffs request to front airlines inquiry', *ABC News*, <https://www.abc.net.au/news/2023-10-03/transport-minister-rebuffs-request-to-front-airlines-inquiry/102930208> (accessed 5 October 2023).

²⁷ Patrick Hannaford, "'Just not true': Prime Minister Anthony Albanese gets facts wrong when defending Transport Minister Catherine King', *Sky News*, <https://www.skynews.com.au/australia-news/politics/just-not-true-prime-minister-anthony-albanese-gets-facts-wrong-when-defending-transport-minister-catherine-king/news-story/fe0df0d87753a326516b8dc70cc5e37b> (accessed 5 October 2023).

²⁸ See Senate Standing Committee on Industry, Science and Technology, *Report on the Consideration of the Australia Nuclear Science and Technology Organisation Amendment Bill 1992*, June 1992, in *Reports by Senate Standing Committees on Consideration of Bills: Tabled February-June 1992*, pp. 67–77, online at <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22publications%2Ftabledpapers%2FHPP032016010144%22> (accessed 6 October 2023).

re-established committee (as recommended above), the committee makes the following recommendation.

Recommendation 10

4.92 The committee recommends that the Senate request the House of Representatives to require the attendance of the Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Catherine King MP, before the re-established Select Committee on Commonwealth Bilateral Air Service Agreements to provide public evidence.

**Senator the Hon Bridget McKenzie
Chair**

Labor Senators dissenting report

- 1.1 This dissenting report was necessary for several reasons.
- 1.2 First, and most immediately, to correct the inaccuracies and obvious bias in the majority report developed with a clear political agenda and without having regard to the complexity of the issue at hand, nor the full evidence presented to the Committee.
- 1.3 It is disappointing that having been in government for all but seven of the last twenty-five years, having made precisely the same decision in relation to Qatar in 2018, and having completely ignored the need for a strategic plan for the aviation sector between 2013 and 2022, opposition senators appear to be using this Committee as a political stunt rather than acting in good faith.
- 1.4 Second, and in contrast to the way the majority report describes Minister King's recent decision as 'major,' the Committee heard evidence that the bilateral air services agreement system has been in place since 1944 and successive Australian governments have, over time, routinely refused to increase capacity under these agreements and had requests for increased Australian capacity rejected.
- 1.5 Indeed, the Committee heard evidence from the Qatar Civil Aviation Authority – conveniently overlooked in the majority report – that the former government approved an increase in capacity under the agreement on 5 April 2018 only to change its mind seven days later and then sit on any further decision for nearly four years. The same evidence shows that since 2007, Qatar has seen its route access increase only incrementally, from 7 services per week to 14 per week in 2009, 21 per week in 2015 and finally to 28 services per week in January 2022. Six years elapsed between the 2009 and 2015 increase and another 7 years elapsed between 2015 and 2022.
- 1.6 In the space of one year, Qatar Airways requested a doubling, from 28 to 56, of weekly services. It is not unusual in any negotiation to ask for more than you expect to receive, but the request was unprecedented in the history of an agreement that grew slowly over many years.
- 1.7 The Committee also heard evidence – including from Marque Lawyers and several trade union groups – about concerns going back many years over Qatar Airways' ability to act as good corporate citizens. In fact, it is instructive to consider that in denying the request for additional services in 2018, former minister McCormack sought to include a 'safeguard' provision in the agreement and has subsequently explained his reasons as follows:

We can't have an airline with very deep pockets undercut, undercut, undercut and ... (then) people go to them as opposed to an airline that may

be majority Australian-owned and unable to compete with the unfair undercutting of prices.¹

- 1.8 Third, despite former coalition ministers acknowledging they made decisions about air services agreements in the national interest, the majority report overlooks the way in which this national interest test has been considered by successive governments over many years. Aviation academic Dr Gui Lohmann told the committee:

When we have a carrier based in Australia, like Qantas or even Virgin Australia... we definitely create a lot more jobs in the country than when we have a foreign carrier that is simply landing here, having a turnaround time of a certain number of hours and then flying out...

There's no dispute that a national carrier base will generate more jobs and more taxes, and there's also potentially an edge in terms of how we access the assets that they have for the country's interest.²

- 1.9 Much has been made during this inquiry about the factors considered in making the decision to deny Qatar Airways' request. Some have suggested that weighing several factors as part of a 'national interest' consideration is a bad thing. We suggest that it is the *only* thing to be done in these circumstances.
- 1.10 Indeed, one inquiry witness representing Australia's airports, who certainly has the interest of national airports in mind, noted that 'there are a lot of things [that go] to making a decision in the national interest, including security...trade and diplomatic relations.'³
- 1.11 In making her decision, the Minister has indicated that she considered the current state of aviation in Australia and the international market; the market's post-Covid recovery; the capacity returning to Australia's air market from a range of air service providers; and the impact of Australian jobs as the market recovers.⁴
- 1.12 Minister King has also publicly indicated that the October 2020 incident at Doha International Airport provided context for her decision.

You know, the reality is this terrible incident happened. It happened to Australian women who are currently before the courts in relation to this case

¹ Senator White quoting former Minister McCormack, *Proof Committee Hansard*, 27 September 2023, pp. 10-11.

² Dr Gui Lohmann, Cluster Leader, 'The Future of Aviation', Griffith Institute for Tourism, Griffith University, *Proof Committee Hansard*, 26 September 2023, p. 76.

³ Mr James Goodwin, Chief Executive, Australian Airports Association, *Proof Committee Hansard*, 27 September 2023, p. 19.

⁴ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Transcript – TV interview ABC 7.30*, 8 September 2023, <https://minister.infrastructure.gov.au/c-king/interview/transcript-tv-interview-abc-730> (accessed 9 October 2023).

trying to seek an apology and compensation. It wasn't a factor in the decision, but it was certainly context for the decision. I can't pretend it wasn't there.⁵

- 1.13 It is the view of Government senators that the safety and security of Australians travelling abroad is very much a consideration in the national interest. A lawyer representing some of the Australians involved in the Doha incident told the Committee his clients do not support allowing Qatar Airways to expand their operations, stating:

It is our clients' opinion that the airline has not demonstrated that it meets common standards of respect for human rights that all Australians would naturally expect of a company allowed to operate within our borders.⁶

- 1.14 Fourth, many of the majority's recommendations appear blissfully ignorant of the current policy framework underpinning Australia's aviation sector and the work underway by the Albanese Labor Government to improve the situation. As the airline industry continues to recover from the pandemic, there is a large amount of additional capacity coming back into the market. Indeed, the Committee heard evidence from respected aviation expert Peter Harbison that 'there are 40 other ways of getting to Europe' and that 'if you look at the Chinese carriers today, you can get to Europe for 1,500 bucks in economy.'⁷ Attempts by opposition senators to connect the Qatar decision with domestic air fare prices are disingenuous. Domestic airfares have fallen substantially from their post-Covid highs, with BITRE's 'best discount' index showing prices in line with those experienced pre-pandemic. Moreover, the slot system at Sydney Airport is complicated and any reforms require a more considered discussion than those that took place during this inquiry – perhaps that is why the Abbott/Turnbull/Morrison governments did not undertake any reform during their time in office and allowed the Slot Compliance Committee to fall into disrepair as early as 2015, according to evidence heard during the inquiry.

- 1.15 Finally, the Committee heard evidence from many key stakeholders commending the Government on its aviation white paper process. The White Paper, due to be released in the first half of 2024, will set the scene for the next generation of growth and development across the aviation sector out to 2050. It will consider as a priority the economic reforms needed to improve productivity across the sector, to facilitate the delivery of aviation services for the Australian

⁵ The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government, *Transcript - Radio Interview - ABC with Sabra Lane*, 7 September 2023. <https://minister.infrastructure.gov.au/c-king/interview/transcript-radio-interview-abc-sabra-lane> (accessed 9 October 2023).

⁶ Mr Michael Bradley, Managing Partner, Marque Lawyers, *Proof Committee Hansard*, 19 September 2023, p. 16.

⁷ Mr Peter Harbison, Chairman, GreenerAirlines.com, *Proof Committee Hansard*, 19 September 2023, p. 70.

public and international visitors out to 2050, as well as protecting secure Australian jobs and better rights and protections for consumers.

- 1.16 Consumer rights and protections when it comes to aviation in Australia have been allowed to drift for too long despite some Committee member's outrage at the current situation. Since the 2009 Aviation White Paper, there have been no substantial updates to the consumer protection framework for the travelling public, despite widespread concerns being raised over recent years. No doubt that is one reason why the Australian Government is developing a new Aviation White Paper, which will consider reforms to consumer protections as a priority.
- 1.17 It would be remiss of us not to mention the majority's focus in its report on the supposed connection between the Government's decision in respect of Qatar and Qantas' support for the Yes campaign. It is difficult to think of a more risible line of argument, less supported by facts, but nonetheless passed off as if it were true. What is true is that when Qantas illegally sacked 1700 workers during the COVID pandemic, it was Labor members and senators who stood alongside them while coalition ministers defended the company's decision. A former Qantas baggage handler, Damian Pollard, told the Committee he received no support from the former government:

Mr Morrison refused to meet us, and I can remember that quite clearly. It's very hard to explain that we actually felt abandoned by the government of the time because nobody would meet with us, except for the [Labor] opposition. The government offered no support, and they continued to praise Qantas and say that it was a decision for Qantas. That feeling of abandonment was quite striking. I can remember, many times, various politicians and prime ministers saying, 'We will govern for everybody,' and we just felt that nobody wanted to tackle Qantas. We were left to sink or swim until, at that stage of government, the [Labor] opposition came in, as well as the TWU, and started supporting us.⁸

- 1.18 Throughout this period, coalition ministers were praising Qantas, boasting about talking to Mr Joyce at least once a week and having been lobbied to extend JobKeeper. When Labor called for corporations to repay JobKeeper instead of using the money for stock buy backs and executive bonuses, the then Prime Minister defended those companies, including Qantas, saying 'I'm not in the politics of envy.' Even today the Coalition is siding with Qantas, this time to oppose Labor's attempts to close the 'labour hire loophole' that sees staff at the airline being paid varying rates under multiple different agreements despite performing the same roles.

⁸ Mr Damien Pollard, Transport Workers Union, *Proof Committee Hansard*, 26 September 2023, p. 47.

Conclusion

- 1.19 It is perhaps understandable that the Senate established the Select Committee on Commonwealth Bilateral Air Service Agreements, given widespread disillusion with Qantas in the public domain.
- 1.20 However, it is disappointing this Committee did not seek to make a meaningful contribution to the public debate, but rather descended quite quickly into political antics. Hardworking public servants were verbally, pressured into answering questions they should never have been asked, and in one particularly egregious example asked to comment on opinion polling.
- 1.21 Government senators were often left unaware of the Committee's daily program until right before hearings commenced, Committee staff – who performed admirably – were instructed not to share information with Government senators, and who could forget the farce that saw senators and their staff, secretariat, Hansard and broadcasting officials travel to a public hearing in Perth where 60 per cent of witnesses dialled in from the East Coast.
- 1.22 That the chair would seek to extend this Committee is not surprising. It is, however, ironic that a key argument for doing so is to hear testimony from a former CEO who is now a private citizen on the other side of the world and whose former employer has given evidence to this inquiry that he never raised the issue of the Australia-Qatar Air Services Agreement with either the Minister or the Prime Minister. Indeed, throughout five public hearings and nearly 150 written submissions, this inquiry has not revealed any information that was not already on the public record before the inquiry began.
- 1.23 It is all the more ironic that the Chair should seek to request Minister King appear before this committee, given the Chair herself only gave evidence to an inquiry in *her own chamber* after having been forced to do so, having declined on at least six occasions to give evidence before the Select Committee on the Administration of Sports Grants.
- 1.24 It is longstanding practice that House of Representatives members do not appear before Senate committees. This was the position adopted by the now leader of the opposition in 2018, and it was a position reiterated by the then speaker of the House of Representatives on 4 December 2019 when he told the House that its members have 'absolutely no obligation to comply with a Senate order.' He went on to say that 'the Senate has no business seeking members of this House to comply with anything they seek to do.' When talking about Labor members and senators on 24 May 2020, former Prime Minister Scott Morrison also said 'they know that House of Representatives Ministers don't appear at Senate inquiries. That's not the normal practise....so I think to now try and change the rules exposes that as just a bit of a political stunt.'
- 1.25 This principle has been followed by Ministers of successive governments, and to call on any Minister to break that principle now is hypocritical in the extreme.

Based on the way opposition senators have conducted themselves during the past month in the context of this inquiry, we have no faith that an extension of the Committee would serve any public interest. We would, however, welcome a detailed and thoughtful consideration of Australia's aviation settings once the government's Aviation White Paper – the first in nearly fifteen years – is delivered in mid 2024.

Senator Tony Sheldon
Labor Senator for New South Wales

Senator Linda White
Labor Senator for Victoria

Australian Greens dissenting report

Lack of transparency in decision making

- 1.1 The Greens share the significant concerns raised in the Committee's inquiry about the process leading to the Qatar Airways decision. The reasons for the decision by Minister King to refuse Qatar Airways additional air rights are still not clear. Multiple reasons have been given by government Ministers, including the vague 'national interest', the 2020 incident where five Australian women were invasively searched, and comments from the Assistant Treasurer that it was made explicitly to protect Qantas.
- 1.2 It is clear that Qantas enjoys a special relationship with the Australian government, more so than should be typical for a private corporation. This inquiry heard evidence from the Virgin Australia CEO that the Prime Minister and other officials were hosted at Qantas HQ several months ago, and in her view, that is when the tide turned on Qatar's request being refused. In this context, the Australian people are right to question the nature of the decision and why, apparently, a private corporation has such a level of access to senior government decision makers, and why the decision making process falls so far short of transparency and accountability standards.

How corporations with market power treat their workers and customers

- 1.3 According to economist John Quiggin, Qantas and its subsidiaries enjoy 60 per cent market share in the Australian airline market. Others have put the figure as high as 66 per cent.¹ Quiggin has referred to this as 'the closest thing we have to a privately owned monopoly';² a position echoed by Professor Alan Fels, former ACCC chair, when he told the inquiry that this market share makes Qantas the 'dominant firm' which is very close to a monopoly and makes it likely they will set prices for the relevant industry.³
- 1.4 Professor Fels also gave evidence that government policies had ensured that the market would not become too competitive and remove Qantas' 'dominant firm' status.

¹ Elias Visontay, 'Qantas and Virgin duopoly dwarfs the Australian banking and supermarket industries, airport peak body says', *The Guardian*, 15 July 2023, <https://www.theguardian.com/business/2023/jul/15/qantas-and-virgin-duopoly-dwarfs-the-australian-banking-and-supermarket-industries-airport-peak-body-says> (accessed 9 October 2023).

² John Quiggin, 'Albanese government's close embrace of Qantas may no longer fly with the times', *The Guardian*, 1 September 2023, <https://www.theguardian.com/commentisfree/2023/sep/01/albanese-governments-close-embrace-of-qantas-may-no-longer-fly-with-the-times> (accessed 9 October 2023).

³ Professor Alan Fels, *Proof Committee Hansard*, 27 September 2023, p. 30.

- 1.5 Customers and Qantas' own employees have been paying the price for Qantas' 'dominant firm' status, through a series of outcomes Australian consumers are all too familiar with:
- Qantas sacked thousands of workers during the pandemic, despite receiving \$2.7 billion in government assistance. The High Court has found that 1,700 of those workers were illegally sacked and their jobs outsourced.
 - The ACCC is taking legal action against Qantas for selling tickets on flights that had already been cancelled.
 - Qantas was the ACCC's most complained about company two years in a row.⁴
- 1.6 Despite this, Qantas posted a record \$2.4 billion profit last year, and their former CEO Alan Joyce's final paycheque was \$21.4 million. In this period Qantas' domestic fares increased by over 20% on pre-pandemic prices and international fares increased by over 50%.⁵
- 1.7 The new CEO and continued board chair gave evidence to this inquiry that showed no indication these practices would not continue. The new CEO defended the size of the former CEO's pay, and the board chair defended the illegal outsourcing of workers, with no indications of remorse or a desire to change the approach Qantas has taken to date.
- 1.8 **The Greens support recommendations 5 and 6** of the committee for ACCC investigation into potential anti-competitive behaviour by Qantas, and consumer protection reforms. However these and the other recommendations of the committee will not address the fundamental problems in the Australian airline industry.

More competition alone will not reform Qantas

- 1.9 Recommendations and discussion that focus on marginal changes to market share fail to address the fundamental concerns about privatising an effective natural monopoly - especially in a country like Australia with so many isolated and remote communities that rely on air services as an essential service.
- 1.10 During the COVID pandemic, the Australian Government provided support worth hundreds of millions, if not billions, to the major airlines, ensuring their survival through an unprecedented period of turmoil and disruption. Despite this there has been no clear action from the major parties to address the mistake

⁴ Elias Visontay and Jonathan Barrett, 'Qantas record profit: delight for shareholders, distrust and derision from customers' *The Guardian*, 24 August 2023, <https://www.theguardian.com/business/2023/aug/24/qantas-annual-profit-share-price-rise-record-billions> (accessed 9 October 2023).

⁵ Tony Webber, 'What will it take to get Australian air fares down?', *The Guardian*, 7 September 2023, <https://www.theguardian.com/commentisfree/2023/sep/07/what-will-it-take-to-get-australian-air-fares-down> (accessed 9 October 2023).

of privatising an effective natural monopoly, and the way in which government support translated into increased corporate profits for wealthy shareholders.

- 1.11 The government should strongly consider taking a full or in part ownership stake in Qantas, so that the onus is on Qantas to be a model employer and promote good consumer practices. This would not just ensure better outcomes for Qantas workers and customers, but put significant pressure on other airlines to match this standard, and as such would represent the most effective means of mandating better practices in the aviation industry.

Recommendation 1

- 1.12 That the Government work to ensure Australians are not disadvantaged by Qantas' dominant position in a natural monopoly, including exploring options such as taking an ownership stake in Qantas.**

Sydney Airport slots

- 1.13 The Greens note related matters raised in the inquiry such as the management of Sydney Airport's slot system.
- 1.14 Professor Rod Sims, also a former ACCC chair, gave evidence to the inquiry about the power that Qantas, and to some extent Virgin, have over the slots system at our major airports via Airport Coordination Australia (ACA), a private company majority owned by Qantas and Virgin. This incentivises them to keep slot prices high to keep out competition from new entries to the airline market, like Rex and Bonza. The airlines are then able to cancel flights to maintain high profits, while still maintaining a dominant market position.
- 1.15 Even more so than the case of Qantas, the management of the slots for major Australian airports is a natural monopoly. 'Competition' cannot meaningfully be introduced into its function, and private ownership will lead to worse, not better, outcomes.
- 1.16 At a minimum, airlines should not be permitted to hold a stake in a company that sells slots, effectively selling to themselves. Professor Sims called it 'extraordinary public policy' that this was permitted.⁶ The government should also consider taking an ownership stake in ACA to ensure fair distribution of slots and to stamp out the possibility of anti-competitive manipulation of the slots system.

Recommendation 2

- 1.17 That the Government urgently prohibit airlines and their subsidiary companies from holding a stake in slot management corporations, and that they consider taking Airport Coordination Australia into public ownership.**

⁶ Professor Rod Sims AO, private capacity, *Proof Committee Hansard*, 27 September 2023, p. 47.

Brisbane Aircraft Noise Comments

- 1.18 This Committee failed to closely examine the evidence on Brisbane aircraft noise, instead making comments based on evidence from stakeholders who have a clear vested interest in increasing the number of flights passing through Brisbane Airport, and therefore making aircraft noise worse. The committee made these comments despite not hearing evidence from affected residents about the devastating effects of aircraft noise on their lives.
- 1.19 Regarding the capacity of Brisbane Airport to deliver flights to regional Queensland while delivering meaningful action on flight noise, this only highlights the problem with a wholly privatised and poorly regulated industry, with significant monopoly players. In essence, the only reason flights to and from regional airports would be a problem is if private corporations are willing to sacrifice regional Queenslanders when it means making a bigger profit. An aviation sector with a robust publicly owned component, for instance a whole or part ownership of Qantas and the slot system, and proper regulation, could ensure that these essential services are available for all Australians, regardless of their postcode, while ensuring that people are not unreasonably affected by aircraft noise.
- 1.20 The Australian Greens therefore explicitly reject this Committee view in the majority report in paragraph 4.73.

Recommendation 3

- 1.21 That the Parliament support passage of the Brisbane Airport Curfew and Demand Management Bill 2023.**
- 1.22 The Greens note the related comments about capacity constraints at Brisbane and Sydney airport. Alternative methods of transport between cities such as High Speed Rail were not considered by the committee, despite the need to urgently decarbonise the transport sector and protect communities against increasing aircraft noise. The Greens also note that under the current government's plan, it is unlikely for High Speed Rail connecting Brisbane to Melbourne via Sydney and Canberra to be completed before the mid-2060s; this is despite a comprehensive report written by research institute Beyond Zero Emissions in 2014 that shows that such a route could be built in 10 years.⁷
- 1.23 The additional benefit of High Speed Rail providing competition to the domestic airline market was also not considered by the committee.

⁷ Beyond Zero Emissions, *High Speed Rail*, April 2014, <https://www.bze.org.au/research/report/high-speed-rail> (accessed 9 October 2023).

Recommendation 4

1.24 That the Government urgently accelerate the development of a Brisbane to Melbourne, via Sydney and Canberra, east coast High Speed Rail line to reduce aircraft emissions and noise, and provide competition to the domestic aviation market.

Proposal to extend the inquiry

- 1.25 The Greens note that a number of witnesses were requested to provide evidence to the Committee, but did not provide evidence. These included the ex-CEO of Qantas Alan Joyce, and the current Federal Transport Minister Catherine King. The Australian Greens have been consistent and long-standing advocates for the vital role of the Senate in holding the government of the day to account, and of the importance of increasing transparency and accountability around government decision making processes.
- 1.26 In close to a decade in government the Liberal-National Party consistently resisted accountability measures on all fronts, including under-resourcing the Freedom of Information system, refusing to respond to Senate orders for the production of documents, delays in responding to questions on notice, and resisting appearing before Senate committees. The Liberal-National Party also failed to address Qantas' dominant position in a natural monopoly market during their time in power, instead providing significant government funding to airlines during COVID without any oversight or accountability. In fact, many of the significant abuses by Qantas listed above occurred while the LNP were in government, and there was a notable failure to respond by the LNP to protect workers or consumers.
- 1.27 This inquiry failed to address this fact, including failing to even mention the illegal sacking of 1,700 Qantas workers during the pandemic, as found by the High Court just last month.
- 1.28 While the Greens will take recommendation 9 and 10 of the report into consideration, one shortcoming of this Select Committee was that the terms of reference failed to sufficiently cover key issues including competition in Australia's domestic air transport market, the protections provided to consumers and workers, and the role of Government in regulating and overseeing natural monopoly markets, including through ownership stakes.

Senator Penny Allman-Payne
Greens Senator for Queensland

Appendix 1

Submissions and additional information

- 1 Australian Travel Industry Association
- 2 Sydney Airport
- 3 Airport Coordination Australia
- 4 WAFarmers
- 5 Accommodation Australia
- 6 ACT Government
- 7 Australian Airports Association
- 8 Productivity Commission
- 9 Australian Meat Industry Council
- 10 Australian Chamber - Tourism
- 11 Queensland Airports Limited
- 12 Brisbane Airport
- 13 Department of Infrastructure, Transport, Regional Development,
Communications and the Arts
- 14 AVLAW Aviation Consulting
- 15 Austrade
- 16 Broome International Airport
- 17 Board of Airline Representatives of Australia
- 18 Dr Peter Forsyth
- 19 Victorian Chamber of Commerce and Industry
- 20 *Name Withheld*
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- 63 Darwin International Airport
- 64 Canberra Airport
 - 64.1 Supplementary to submission 64
- 65 National Farmers' Federation
- 66 Qatar Civil Aviation Authority
- 67 Rex
 - 67.1 Supplementary to submission 67
- 68 *Name Withheld*
- 69 *Name Withheld*
- 70 Virgin Australia
- 71 Qatar Airways
- 72 Queensland Consumer Association
- 73 Mrs Gay Kayler Ashcroft
- 74 *Name Withheld*
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- 141 Qantas Loyalty
- 142 Ms Gwen Woodford
- 143 Mr Tony Maddern
- 144 Australia International Airlines PTY Limited
- 145 Regional Aviation Association of Australia
- 146 *Name Withheld*
- 147 Qantas
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- 154 Mr Ian Logan
- 155 *Name Withheld*

Additional Information

- 1 Additional information received from Mr John Hassell, WAFarmers, 22 September 2023
- 2 Additional information received from Sydney Airports, 27 September 2023
- 3 Additional information received from dnata, 28 September 2023
- 4 Additional information received from Australian Travel Industry Association, 29 September 2023
- 5 Additional information received from Rex, 28 September 2023
- 6 Additional information received from Qatar Airways, 28 September 2023

Answer to Question on Notice

- 1 Professor Rico Merkert, answer to questions on notice, public hearing, 19 September 2023 (received 22 September 2023)
- 2 Marque Lawyers, answer to questions on notice, public hearing, 19 September 2023 (received 25 September 2023)
- 3 CHOICE, answer to questions on notice, public hearing, 19 September 2023 (received 26 September 2023)
- 4 Civil Air, answer to questions on notice, public hearing, 22 September 2023 (received 27 September 2023)
- 5 Australian Travel Industry Association, answer to questions on notice, public hearing, 19 September 2023 (received 29 September 2023)
- 6 Brisbane Airport, answer to questions on notice, public hearing, 26 September 2023 (received 29 September 2023)
- 7 Perth Airport, answer to questions on notice, public hearing, 22 September 2023 (received 29 September 2023)
- 8 Turkish Airlines, answer to questions on notice, public hearing, 26 September 2023 (received 29 September 2023)
- 9 Qatar Airways, answer to questions on notice, public hearing, 27 September 2023 (received 29 September 2023)
- 10 Morris Mennilli, answer to questions on notice, public hearing, 27 September 2023 (received 29 September 2023)
- 11 Bain Capital, answer to questions on notice, public hearing, 27 September 2023 (received 29 September 2023)
- 12 Australian Meat Industry Council, answer to questions on notice, public hearing, 26 September 2023 (received 29 September 2023)
- 13 Australian Competition & Consumer Commission, answer to questions on notice, public hearing, 22 September 2023 (received 29 September 2023)
- 14 Australian Airports Association, answer to questions on notice, public hearing, 27 September 2023 (received 29 September 2023)
- 15 Turkish Airlines, answer to written questions on notice, 29 September 2023 (received 3 October 2023)
- 16 Australian Airports Association, answer to written questions on notice, 29 September 2023 (received 3 October 2023)
- 17 Qantas, answer to questions on notice, public hearing, 27 September 2023 (received 4 October 2023)
- 18 Department of the Prime Minister and Cabinet, answer to questions on notice, public hearing, 28 September 2023 (received 4 October 2023)
- 19 Sheep Producers Australia, answer to questions on notice, public hearing, 22 September 2023 (received 4 October 2023)
- 20 Airservice Australia, answer to questions on notice, public hearing, 19 September 2023 (received 5 October 2023)
- 21 Bonza, answer to questions on notice, public hearing, 27 September 2023 (received 5 October 2023)

- 22 Qantas, answer to questions on notice, public hearing, 27 September 2023 and answer to written questions on notice (received 5 October 2023)
- 23 Department of Infrastructure, Transport, Regional Development, Communications and the Arts, answer to questions on notice, public hearing, 27 September 2023 and answer to written questions on notice (received 6 October 2023)
- 24 Department of Foreign Affairs and Trade, answer to questions on notice, public hearing, 27 September 2023 and answer to written questions on notice (received 6 October 2023)
- 25 Virgin Australia, answer to questions on notice, public hearing, 27 September 2023 and answer to written questions on notice (received 6 October 2023)
- 26 Department of the Prime Minister and Cabinet, answer to questions on notice, public hearing, 28 September 2023 (received 9 October 2023)

Media Releases

- 1 Media release - Establishment of committee and call for submissions - 8 September 2023
- 2 Media release - Program of public hearings - 14 September 2023
- 3 Chair's Statement - 18 September 2023
- 4 Chair's Statement - 26 September 2023

Tabled Documents

- 1 Correspondence from the Hon Catherine King MP tabled by the Chair, Senator the Hon Bridget McKenzie, at public hearing on 19 September 2023
- 2 Document from Dr Tony Webber, tabled at public hearing on 19 September 2023
- 3 Document from Air Services Australia, tabled at public hearing on 19 September 2023
- 4 Correspondence from the Chief Executive Officer of Craig Mostyn Group tabled by the Chair, Senator the Hon Bridget McKenzie, at public hearing on 22 September 2023
- 5 Document from Civil Air, tabled at public hearing on 22 September 2023
- 6 Document tabled by the Chair, Senator the Hon Bridget McKenzie, at public hearing on 26 September 2023
- 7 Document from Bonza, tabled at public hearing on 27 September 2023
- 8 Document from Virgin Australia, tabled at public hearing on 27 September 2023
- 9 Document from Virgin Australia, tabled at public hearing on 27 September 2023
- 10 Document from Qantas, tabled at public hearing on 27 September 2023
- 11 Document from Department of Infrastructure, Transport, Regional Development, Communications and the Arts, tabled at public hearing on 28 September 2023

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- 12 Document from Department of Infrastructure, Transport, Regional Development, Communications and the Arts, tabled at public hearing on 28 September 2023
 - 13 Document from Department of Infrastructure, Transport, Regional Development, Communications and the Arts, tabled at public hearing on 28 September 2023
 - 14 Document from Department of Infrastructure, Transport, Regional Development, Communications and the Arts, tabled at public hearing on 28 September 2023
 - 15 Document from Department of Infrastructure, Transport, Regional Development, Communications and the Arts, tabled at public hearing on 28 September 2023
 - 16 Document from Department of Infrastructure, Transport, Regional Development, Communications and the Arts, tabled at public hearing on 28 September 2023
 - 17 Document from Department of Infrastructure, Transport, Regional Development, Communications and the Arts, tabled at public hearing on 28 September 2023
 - 18 Document from Department of Infrastructure, Transport, Regional Development, Communications and the Arts, tabled at public hearing on 28 September 2023
 - 19 Document tabled by the Chair, Senator the Hon Bridget McKenzie, at public hearing on 28 September 2023

Appendix 2

Public hearings and witnesses

Tuesday, 19 September 2023

Sydney Masonic Centre
66 Goulburn Street
Sydney

Airservices Australia

- Mr Peter Curran, Chief Customer and External Relations Officer
- Mr Paul Stoddart, Head of Government Regulatory and International Engagement

Airline Intelligence and Research

- Dr Tony Webber, Managing Director

Marque Lawyers

- Mr Michael Bradley, Managing Partner

Flight Centre Travel Group

- Mr Graham Turner, Managing Director and Chief Executive Officer

Australian Travel Industry Association

- Mr Dean Long, Chief Executive Officer

Sydney Airport

- Mr Geoff Culbert, Chief Executive Officer
- Mr Rob Wood, Chief of Aviation

Airport Coordination Australia

- Ms Petra Popovac, Chief Executive Officer

CHOICE

- Ms Rosie Thomas, Director of Campaigns and Communications

Consumers' Federation of Australia

- Mr Gerard Brody, via teleconference

Professor Rico Mekert, Private capacity

Mr Peter Harbison, Private capacity

Friday, 22 September 2023

Duxton Hotel

1 St Georges Terrace

Perth

Canberra Airport

- Mr Stephen Byron, Chief Executive Officer, via teleconference

Adelaide Airport

- Mr Brenton Cox, Managing Director, via teleconference

Darwin Airport

- Mr Tony Edmondstone, Chief Executive Officer, via teleconference

WAFarmers

- Mr John Hassell, President

Sheep Producers Australia

- Ms Bonnie Skinner, Chief Executive Officer, via teleconference
- Ms Belinda Murray, Board Director and WA sheep producer

Pastoralists and Graziers Association WA

- Mr Tony Seabrook, President, via teleconference

Civil Air

- Mr Peter McGuane, Executive Secretary, via teleconference

Australian Competition and Consumer Commission

- Ms Gina Cass-Gottlieb, Chair, via teleconference
- Ms Anna Brakey, Commissioner, via teleconference
- Ms Sarah Proudfoot, Executive General Manager Infrastructure, via teleconference
- Mr David Cranston, Director, Merger Investigation, via teleconference
- Mr Anthony Hill, Consumer and Fair Trading

National Farmers Federation

- Mr Tony York, Director, via teleconference

Chamber of Commerce and Industry WA

- Mr Chris Rodwell, Chief Executive Officer

Perth Airport

- Mr Matt Brown, General Manager Corporate Affairs
- Ms Stephanie Juskiewicz, Senior Vice President, Aviation Business Development

Tuesday, 26 September 2023

Royal on the Park

Bristol Room

152 Alice Street

Brisbane

Productivity Commission

- Dr Alex Robson, Acting Chair
- Ms Ana Markulev, Assistant Commissioner, via teleconference

Alliance Airlines

- Mr Stewart Tully, Chief Operating Officer
- Mr Marc Devine, Chief Financial Officer and Company Secretary

Turkish Airlines

- Ahmet Halid Kutluoglu, General Manager in Australia and New Zealand

dnata

- Mr Burt Sigsworth, Managing Director, Airport Operations in Australia

Australian Meat Industry Council

- Mr Sam Munsie, General Manager - Trade and Technical Affairs

Brisbane Airport Corporation

- Mr Ryan Both, General Manager, Aviation
- Ms Rachel Crowley, Executive General Manager Communications and Public Affairs

Melbourne Airport

- Mr Jim Parashos, Acting Chief Executive Officer of Aviation

Transport Workers Union

- Mr Michael Kaine, National Secretary, via teleconference
- Mr Damien Pollard, Former Qantas Employee, via teleconference

Australian Services Union

- Ms Imogen Sturni, Branch Secretary, via teleconference

Australia Qatar Business Council

- Mr Simon Harrison, Chairman and National President

Australian Chamber - Tourism

- Mr John Hart, Executive Chair of Australia Chamber

Cairns Airport

- Mr Richard Barker, Chief Executive Officer, via teleconference

Queensland Airports Limited

- Mr Adam Rowe, Chief Commercial Officer (Gold Coast, Townsville, Mount Isa and Longreach airports), via teleconference

Sunshine Coast Airport

- Mr Scott Norris, General Manager Aviation and Commercial, via teleconference
- Mr Gary Allen, Interim Chief Executive Officer, via teleconference

Dr Iryna Heiets, Private capacity

Professor Gui Lohmann, Private capacity

Mr Peter Harris, Private capacity

Wednesday, 27 September 2023

Main Committee Room

Parliament House

Canberra

Qatar Airways

- Mr Fathi Atti, Senior Vice President, Aeropolitical and Corporate Affairs
- Mr Matt Raos, Senior Vice President, Global Sales

Australian Airports Association

- Mr James Goodwin, Chief Executive
- Mr Merrick Peisley, Head of Policy and Advocacy

Bonza

- Mr Tim Jordan, Chief Executive Officer

Prof Allan Fels AO, Private capacity

Virgin Australia

- Ms Jayne Hrdlicka, Chief Executive Officer
- Mr Christian Bennett, Chief Corporate Affairs and Sustainability Officer

Bain Capital

- Mr Ray Hass, Operating Partner

Prof Rod Sims AO, Private capacity

Qantas

- Mr Richard Goyder AO, Chairman
- Ms Vanessa Hudson, Chief Executive Officer and Managing Director
- Mr Andrew Finch, General Counsel and Group Executive

Business Chamber Queensland

- Ms Heidi Cooper, Chief Executive Officer, via videoconference

Rex Group

- The Hon John Sharp, Deputy Chairman, via videoconference

Thursday, 28 September 2023

Main Committee Room

Parliament House

Canberra

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

- Ms Marisa Purvis-Smith, Deputy Secretary, Transport Group
- Ms Stephanie Werner, First Assistant Secretary, Domestic Aviation and Reform
- Mr Richard Wood, First Assistant Secretary, International Aviation and Technology Services
- Mr Jim Wolfe, Assistant Secretary, International Aviation
- Mr Ben Vincent, Assistant Secretary, Domestic Policy and Programs

Department of Foreign Affairs and Trade

- Mr Ridwaan Jadwat, First Assistant Secretary, Middle East and Africa Division

The Treasury

- Ms Mohita Zaheed, First Assistant Secretary, Labour Market, Environment, Industry and Infrastructure Division
- Mr Damien Mullaly, Assistant Secretary, Industry and Infrastructure Branch
- Mr Nick Mowbray, Director, Infrastructure, Transport and Communications Unit

Department of Prime Minister and Cabinet

- Ms Narelle Luchetti, First Assistant Secretary, Industry Infrastructure & Environment Division
- Ms Christina Garbin, Assistant Secretary, Infrastructure Transport & Regional Branch, Industry Infrastructure & Environment Division